

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX

PETRO INDUSTRIAL SOLUTIONS, LLC	)	
(PETRO)	)	
	)	CASE NO. 1:21-CV-00312
Plaintiff,	)	
	)	
vs.	)	
	)	
ISLAND PROJECT AND OPERATING	)	
SERVICES, LLC, VITOL US HOLDING II	)	
CO., VITOL VIRGIN ISLANDS CORP.,	)	
ANDREW CANNING and OPTIS	)	
EUROPE, LTD.,	)	
	)	
Defendants.	)	
	)	

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THE 30(B)(6) DEPOSITION OF **ISLAND PROJECT AND OPERATING SERVICES, LLC (IPOS)**, by **DAVID MICHAEL SMITH**, called for examination by the Plaintiff in the above-entitled cause, for purpose of discovery, for use in evidence and for such other and further uses as are provided by the Federal Rules of Civil Procedure, was taken before YVONNE SAMUEL-SETORIE, Registered Professional Reporter, via Zoom video conference on the 21st day of May 2023, commencing at 9:08 a.m., pursuant to Notice.

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27

28

29    Also Present:  
30    Adrian Melendez, Jr.  
31    Andrew Canning

32

33

34

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P-R-O-C-E-E-D-I-N-G-S

(DAVID MICHAEL SMITH,

having been called as a witness, was duly sworn by the  
Notary Public, was examined and testified as follows:)

DIRECT EXAMINATION

BY MS. ROHN:

Q. Good morning. Could you state your name --

MS. FRANCIS: Sorry. Before we get started,  
this is Simone Francis for IPOS.

MS. ROHN: You're reverberating.

MS. FRANCIS: I understand that.

(Off the record.)

MS. FRANCIS: For the record I do object to  
the recording. The notice that was filed in this  
matter for this deposition does not indicate that the  
deposition is being video recorded, and so we do  
object to that, because the rules require the notice  
to specify the manner of examination, and there's no  
indication of a recording. So we do object to that.

MS. ROHN: Note your objection. Please  
record. You can -- we can argue about it later.

MS. FRANCIS: We'll take -- we'll take that up  
with the court, but I just want the record to be

7

clear.

MS. ROHN: I think the record is perfectly  
clear.

BY MS. ROHN:

Q. Good morning, Mr. Smith. Could you state your  
name for the record, please?

A. Sure. David Michael Smith.

Q. And, Mr. Smith, where do you currently reside?

A. Orlando, Florida.

Q. And how long have you resided there?

A. June 2018.

Q. And what did you do, if anything, to prepare to  
be deposed?

A. I've reviewed documents. I've reviewed with our  
counsel, and have talked to other representatives of IPOS  
to understand anything that I may not have seen in the  
documents.

Q. Okay. Can you recall what documents you  
reviewed?

A. There have been multiple documents, thousands of  
documents turned over, and I've tried to go through as many  
as possible to understand based upon the filings, the more  
than 80 points that were filed in order to understand  
correctly.

MS. ROHN: One second.

8

(Off the record.)

BY MS. ROHN:

Q. Over what period of time have you prepared for  
your deposition?

A. Approximately the last 30 days or so has been  
primarily focused on that.

Q. And what persons from IPOS did you discuss issues  
with?

A. Merlin Figueira.

Q. Anyone else?

A. I spoke to Terry Keogh as well.

Q. Anyone else?

A. No, that is it.

Q. And when did you begin to speak with  
Merlin Figueira about issues related to the deposition of  
IPOS?

A. Again, within the last 30 days.

Q. How often did you speak to him?

A. Two times.

Q. And the first time that you spoke to him, what  
was the purpose of that conversation?

A. It was together with counsel to understand how  
the depositions occur and the scheduling involved since he  
is not in the United States and not anywhere in this  
territory.

9

Q. Where is he?

A. He's in Nigeria.

Q. And the second time that you spoke with him, what  
was the subject of those conversations -- that  
conversation?

A. Again, to review some of the allegations made by  
Petro Industrial to ensure that things that I was not  
present at to make sure that I was able to speak to it on  
behalf of the company as a representative today.

Q. And so what sorts of things were those?

A. The allegations made by Petro Industrial about  
whether or not there were ever complaints registered to him  
about Andrew Canning.

Q. And what did you learn?

A. That there were never any complaints registered  
to Merlin Figueira on behalf of Petro Industrial based upon  
race and discrimination.

Q. Well, were there complaints raised about  
Mr. Canning?

A. There were related to the grating incident, yes.

Q. Well, didn't Mr. Figueira believe that  
Mr. Canning was undermining Petro?

A. I can't speak as to what Mr. Figueira said there,  
but, no, he did not tell me that.

Q. Have you seen the e-mails to you that say that

10

1 it's a good thing that they're going to see Charlotte and  
2 Sebastian because it will help with the efforts by Canning  
3 to undermine Petro?

4 A. Yes, I have seen those e-mails.

5 MS. FRANCIS: Objection.

6 BY MS. ROHN:

7 Q. And have you -- did you have discussions at the  
8 time with Mr. Figueira about that?

9 A. I don't -- no, I do not recall that I did have  
10 discussions at the time about that.

11 Q. Did you ever try to figure out the basis for  
12 which Mr. Canning had decided to undermine Petro?

13 A. I don't know -- again, I can't speak to  
14 Mr. Canning or Mr. Figueira. I was not aware personally  
15 that any things were being done to undermine Mr. --  
16 Petro Industrial.

17 Q. Did you -- were you the party to multiple e-mails  
18 from Mr. Canning making allegations about Mr. -- about  
19 Petro being unprofessional, stealing time, being lazy,  
20 those kinds of things?

21 MR. SIMPSON: Objection.

22 BY MS. ROHN:

23 A. I don't know --

24 Q. You may answer.

25 A. I don't know that I could answer about every one

11

1 of those you said. If you could rephrase and go through  
2 each one, perhaps then I could do it. But I don't know  
3 that I would categorize what you said correctly.

4 Q. Okay. Well, did you -- were you -- did you

5 receive the e-mail from Mr. Canning in which he referred to  
6 three of Petro's employees as lazy Puerto Ricans?

7 MS. FRANCIS: Objection. Misstates the  
8 record.

9 MS. ROHN: Please don't yell.

10 MR. SIMPSON: Please don't misstate the  
11 record.

12 MS. FRANCIS: Objection. Foundation.

13 BY MS. ROHN:

14 Q. Are you aware of those e-mails?

15 MS. FRANCIS: Same objection.

16 BY MS. ROHN:

17 Q. You may answer.

18 A. I'm aware of e-mails. I do not recall seeing  
19 those specific words that you used. I'd have to see that  
20 e-mail again to verify that.

21 Q. Do you know Calvin Schmidt, sir?

22 A. Yes, I do.

23 Q. And didn't Mr. Schmidt complain to you about  
24 Mr. Canning and his attitude towards locals?

25 A. No, he did not.

12

1 Q. When you got the lawsuit concerning Petro against  
2 IPOS and others claiming discrimination, did you on behalf  
3 -- did IPOS conduct any investigation as to those  
4 allegations?

5 A. At the time we had never received any complaints,  
6 anything from anyone in writing to any of the people about  
7 it. We have done everything we can to produce any records  
8 associated with it, and don't believe it has merit.

9 Q. My question was: Did you conduct an  
10 investigation after the lawsuit to determine whether or not  
11 there was discrimination?

12 A. We -- no. Not a formal investigation, no.

13 Q. And why do you think a complaint has to be in  
14 writing?

15 MS. FRANCIS: Objection. Misstates the  
16 witness' testimony.

17 BY MS. ROHN:

18 Q. You said "we received no complaint in writing."

19 MS. FRANCIS: That's what he said. Your  
20 question misstates --

21 MS. ROHN: Please stop making speaking  
22 objections.

23 BY MS. ROHN:

24 Q. Sir, why did you say "no complaint in writing"?

25 A. Well, I did not -- I guess, if you ask the

13

1 question, I have not received a verbal complaint either.

2 Q. And I believe the other person you said you spoke  
3 to was Terry Keogh. Is that -- am I pronouncing his name  
4 correctly?

5 A. Yes, ma'am.

6 Q. And what information did you obtain from  
7 Terry Keogh?

8 A. He was only around for 15 or so days until the  
9 decision was made to terminate. But I also had to arrange  
10 with him when his deposition would be, as he's no longer an  
11 IPOS employee, and was traveling as well.

12 Q. And whose employee is he now?

13 A. I am not sure. I do not know.

14 Q. Does he work for one of the Vitol companies?

15 A. I do not know.

16 Q. Well, how did you know how to get ahold of him?

17 A. I have his personal cell phone.

18 Q. And you didn't ask him, Hey, how are you? Who  
19 are you working for now?

20 A. I know he is still in the Virgin Islands working.

21 I do not know the entity of which he is employed by.

22 Q. Other than making travel arrangements, did you  
23 have any other conversations with Mr. Keogh about this

24 30(b)(6) deposition?

25 MS. FRANCIS: Objection.

14

1 BY MS. ROHN:

2 A. No, I did not.

3 MS. FRANCIS: Misstates the testimony.

4 BY MS. ROHN:

5 Q. So, sir, by the way, my name is Lee Rohn, and I  
6 am representing Petro.

7 So have you ever had your deposition taken before?

8 A. Yes.

9 Q. And on how many occasions?

10 A. One time.

11 Q. And what -- when was that?

12 A. I don't recall the exact year. Approximately  
13 2018.

14 Q. And what was the case about that you were deposed  
15 in?

16 A. It was a case where your firm represented the  
17 client. It was IPOS vs. Troy Mason.

18 Q. I believe, was it not. Troy Mason vs. IPOS?

19 A. I'm sorry. I -- I don't know the correct legal  
20 name of it.

21 Q. And were you deposed as IPOS or individually?

22 A. I do not recall. I suspect -- I do not recall.

23 Q. Well, sir, do you understand that today you're  
24 here to testify on behalf of IPOS? You understand that?

25 A. Yes. Yes, ma'am.

15

1 Q. So, sir, what is your current job? Where are you  
2 employed?

3 A. Seaport Canaveral Corporation.

4 Q. How long have you worked there?

5 A. Since June of 2018.

6 Q. And where is Seaport Canaveral Corporation?

7 A. Cape Canaveral, Florida.

8 Q. And how did it come about that you got a job  
9 there?

10 MS. FRANCIS: Objection. Beyond the scope of  
11 the 30(b)(6). This witness is not being deposed  
12 individually.

13 MS. ROHN: Noted.

14 BY MS. ROHN:

15 Q. Answer my question, please.

16 MS. FRANCIS: Please don't speak to my client  
17 that way, Attorney Rohn.

18 MS. ROHN: I am not speaking to him anyway. I  
19 am just asking him to answer my question.

20 BY MS. ROHN:

21 Q. Could you answer my question, please?

22 A. Can you repeat it, please?

23 Q. Yes. What came about that you went to work for  
24 Seaport Canaveral Corporation?

25 A. I was asked by the company to move to

16

1 Seaport Canaveral Corporation.

2 Q. And what company is that?

3 A. VTTI.

4 Q. And what do you do at

5 Seaport Canaveral Corporation?

6 A. I'm the general manager.

7 Q. And what does Seaport --

8 A. Excuse me a second. The light turned off.

9 Q. No worries.

10 A. I'm sorry. Please -- please repeat that.

11 Q. Sure. What kind of business is

12 Seaport Canaveral Corporation?

13 A. An oil storage terminaling company.

14 Q. I'm sorry. You broke up a little bit. Could you  
15 say that again?

16 A. Sure. An oil storage terminaling company.

17 Q. Whose oil does it store?

18 A. It's a third party independent company. We have  
19 different clients. Currently the client that is in the  
20 storage is Vitol.

21 Q. Which Vitol?

22 A. I'm not sure the name of the company that -- the  
23 specific entity. I don't know.

24 Q. How long since 2018 has that been a storage for  
25 Vitol?

17

1 A. The entire time.

2 Q. And who at VTTI approached you to transfer to  
3 Seaport Canaveral Corporation?

4 A. The CEO, Rob Nijst.

5 Q. I'm sorry. Could you say that name again?

6 A. Rob Nijst.

7 Q. And where does Mr. Nijst work?

8 A. He's currently retired.

9 Q. Where did he work at the time he had that  
10 conversation with you?

11 MS. FRANCIS: Objection. Beyond the scope.

12 BY MS. ROHN:

13 Q. You may answer.

14 A. He was the CEO of VTTI.

15 Q. Right. But where was he working out of?

16 A. Oh, I'm sorry. Rotterdam.

17 Q. Prior to working for Seaport Carnival

18 Corporation, where did you work?

19 MS. FRANCIS: Misstates the testimony.

20 BY MS. ROHN:

21 Q. You may answer.

22 A. It was Seaport Canaveral. You said Carnival.

23 Q. Oh, sorry. But my handwriting is terrible.

24 A. IPOS.

25 Q. At the time that you worked for IPOS, did you



18

1 also work for VTTI?  
 2 A. No.  
 3 Q. What period of time did you work for IPOS?  
 4 A. May 2017 until June 2018.  
 5 Q. So how was it that VTTI could come and ask you as  
 6 an IPOS employee to transfer?  
 7 MS. FRANCIS: Objection. Speculation.  
 8 BY MS. ROHN:  
 9 Q. You may answer.  
 10 A. VTTI is the parent company.  
 11 Q. Of IPOS?  
 12 A. I -- I don't know the corporate hierarchy to --  
 13 to where that is, but that's the CEO of -- there's all of  
 14 the terminals are part of the VTTI group.  
 15 Q. And prior to working for IPOS from May 2017 to  
 16 June 2018, where did you work?  
 17 A. I was a consultant with my own LLC from 2016  
 18 until 2017.  
 19 Q. What was the name of the LLC?  
 20 (Interruption by the court reporter.)  
 21 A. Lotigroup, L-o-t-i-g-r-o-u-p, LLC.  
 22 Q. And were any of the people that you consulted  
 23 with as Lotigroup any of the Vitol companies?  
 24 A. No.  
 25 Q. No VTTI, no Vitol Inc. work?

20

1 A. From 2008 until 2016.  
 2 Q. And what caused you to leave that position?  
 3 A. We signed a mutual separation agreement.  
 4 Q. And why did you do that?  
 5 A. The assets that I was responsible for had all  
 6 been sold.  
 7 Q. And what was your position with them when you  
 8 left?  
 9 A. Vice president, international operations.  
 10 Q. And prior to that where did you work?  
 11 A. Aruba.  
 12 Q. For what company?  
 13 A. It was different organizations, that when I left  
 14 it was Valero Energy.  
 15 Q. How long did you -- so how long did you work in  
 16 Aruba?  
 17 A. 1998 until 2008.  
 18 Q. When you worked for IPOS, what was your position  
 19 at IPOS?  
 20 A. General manager.  
 21 Q. And what were your responsibilities as general  
 22 manager?  
 23 A. Operations, health, safety and environmental,  
 24 projects, finance, accounting, hiring people, banking.  
 25 Q. And who did you report to?

19

1 A. No.  
 2 Q. How did you come to work for IPOS?  
 3 A. I applied --  
 4 MR. BECKSTEDT: Sorry. I apologize. I just  
 5 am objecting to that last question of Attorney Rohn.  
 6 BY MS. ROHN:  
 7 Q. You may answer. I mean, so how did you come  
 8 about to work for IPOS?  
 9 A. I applied online through a recruiter.  
 10 Q. I'm sorry. You applied online and what?  
 11 A. Through a recruiter.  
 12 Q. So how did you know the job was available?  
 13 A. It was on LinkedIn.  
 14 Q. And why did you want to leave your consultant  
 15 group?  
 16 A. There was an interim prior to another job I had  
 17 held for multiple years before.  
 18 Q. What was the job that you had held for multiple  
 19 years before?  
 20 A. NuStar Energy.  
 21 Q. And where did you work out at NuStar Energy?  
 22 A. San Antonio, Texas.  
 23 Q. What did NuStar Energy do?  
 24 A. Oil terminaling, pipeline business.  
 25 Q. How long did you work for them?

21

1 A. Reported to the CEO of VTTI, Rob Nijst.  
 2 Q. And did you have persons who reported to you?  
 3 A. Yes, I did.  
 4 Q. And who reported to you?  
 5 A. Alex Etienne, Calvin Schmidt, Cyla Gooding,  
 6 Rawle Granger, and Coury Hodge.  
 7 Q. When you left IPOS in June of 2018, did you  
 8 retain any positions with IPOS?  
 9 A. Yes, I retained the title of general manager.  
 10 Q. And how did you retain the title of general  
 11 manager but be working for Canaveral, Seaport Canaveral?  
 12 A. I had a responsibility for the terminal.  
 13 However, I was paid a hundred percent by Seaport Canaveral.  
 14 Q. And who made that decision?  
 15 MS. FRANCIS: Objection. Relevance. Beyond  
 16 the scope of the notice. This witness is not here on  
 17 his personal capacity.  
 18 BY MS. ROHN:  
 19 Q. Who informed you that you would be -- keep your  
 20 job as terminal manager at IPOS but be paid for working at  
 21 IPOS through Seaport Canaveral?  
 22 MS. FRANCIS: Objection. Misstates the  
 23 testimony.  
 24 BY MS. ROHN:  
 25 Q. Could you repeat your answer, please?

22

1 A. Rob Nijst.  
 2 Q. Does VTTI have an ownership interest in  
 3 Seaport Canaveral?  
 4 A. I'm not sure of the exact corporate structure,  
 5 hierarchy; so I'm unable to answer that.  
 6 Q. At Seaport Canaveral who do you report to?  
 7 A. Alice Niewold Cordova.  
 8 Q. And where does she work?  
 9 A. Argentina.  
 10 Q. No, what company does she work for?  
 11 A. Oh. VITCO.  
 12 Q. VITCO?  
 13 A. Yes. It's an acronym like IPOS, but I don't know  
 14 what it stands for.  
 15 Q. Is it a Vitol related company?  
 16 A. No, it is not.  
 17 Q. Do you know why a non-Vitol or VTTI company would  
 18 pay for you to be a general manager at IPOS?  
 19 MR. BECKSTEDT: Objection.  
 20 MS. FRANCIS: Objection.  
 21 BY MS. ROHN:  
 22 Q. You can answer.  
 23 A. You didn't ask me about VTTI. You asked me about  
 24 Vitol.  
 25 Q. Okay. Is it a VTTI related company?

24

1 A. I was attempting to come once per month.  
 2 Q. How much did you actually come?  
 3 A. I don't know the answer to that.  
 4 Q. How many times in a year would you come?  
 5 (Interruption by the court reporter.)  
 6 MS. FRANCIS: Asked and answered.  
 7 BY MS. ROHN:  
 8 Q. How many times a year would you come?  
 9 A. It varied depending on the year.  
 10 Q. From what to what?  
 11 A. Well, during COVID I was unable to travel; so,  
 12 therefore, it was severely limited. And at that time also  
 13 we were trying to find a terminal manager. And when --  
 14 when -- so in 2018 when I left, it was much more frequent.  
 15 In 2019 it was much more frequent. 2020, 2021, not as  
 16 frequent.  
 17 Q. And when you say "more frequent," what would --  
 18 how would you describe more frequent?  
 19 A. I don't know the exact number, ma'am.  
 20 Q. More or less than five times a year?  
 21 A. Uhm, well, since I left in June, it was less in  
 22 2018. In 2019 probably more.  
 23 Q. And what would be your purpose to travel to the  
 24 Virgin Islands at those times?  
 25 A. Well, to meet with the team to review budgets. I

23

1 A. Yes, it is.  
 2 Q. And when you were working for Seaport Canaveral,  
 3 what was your job -- I thought you said your job there was  
 4 -- tell me what -- was general manager; is that correct?  
 5 A. Yes.  
 6 Q. So what were your job responsibilities as general  
 7 manager for Seaport Carnival?  
 8 A. Canaveral.  
 9 Q. Sorry. Canaveral.  
 10 A. Similar. Accounting, finance, responsibility for  
 11 the terminal, health, safety and environmental, operations,  
 12 commercial.  
 13 Q. And who reported -- who reported to you at  
 14 Seaport?  
 15 MS. FRANCIS: Objection. Relevance.  
 16 BY MS. ROHN:  
 17 Q. Answer my question, please.  
 18 A. Do you want names or job titles?  
 19 Q. Job titles would be fine.  
 20 A. Commercial manager, operations manager, technical  
 21 manager, health, safety and environmental manager, finance  
 22 manager.  
 23 Q. And how often when you became the general manager  
 24 of Seaport -- Seaport Canaveral would you be in the  
 25 Virgin Islands?

25

1 attended all of the meetings virtually while I wasn't there  
 2 as well. So, I mean, normal operations, accounting, any  
 3 banking that needed to be done.  
 4 Q. And when you transferred to Seaport Canaveral in  
 5 2018, who at IPOS continued to report to you?  
 6 A. The same names I gave earlier.  
 7 Q. Did Mr. Figueira report to you?  
 8 A. He did not.  
 9 Q. Was Mr. Figueira there at the time that you were  
 10 there from 2017 to 2018?  
 11 A. He was there prior to me coming. I believe there  
 12 was one month overlap in 2017, and then he left for another  
 13 assignment.  
 14 Q. And then when you left in 2018 to go to Seaport,  
 15 did he come back to IPOS?  
 16 A. He did not.  
 17 Q. So did he take on any roles at IPOS?  
 18 A. Not in 2018, no.  
 19 Q. No, at any time after 2018.  
 20 A. Oh, I'm sorry. Then, yes. Yes, he did. He did  
 21 return later. I thought you were specifically talking  
 22 about 2018.  
 23 Q. And when did he return?  
 24 A. December 2019.  
 25 Q. And why did he return?

26

1 A. He had medical issues; so he was no longer  
2 working at the terminal he was with before. And when he  
3 recovered, we were still searching for a terminal manager  
4 position, and so he was available and agreed to go on a  
5 short-term basis.

6 Q. Was he an acting terminal manager?

7 A. Yes.

8 Q. And who did he report to?

9 A. He reported to Rob Nijst.

10 Q. And was he actually an employee of IPOS or  
11 someone else -- or some other company?

12 A. An employee of IPOS.

13 Q. Paid by IPOS?

14 A. Paid by IPOS.

15 Q. And did he report to you in the position as  
16 acting terminal manager?

17 A. I would say dotted line. I still had ultimate  
18 responsibility.

19 Q. So were you coequals?

20 A. I would say not because of the fact that I had  
21 the responsibility, and I was appointed to be the  
22 representative for the company.

23 Q. Representative for what company?

24 A. For IPOS.

25 Q. And what sorts of things did you report to VTTI?

27

1 A. Monthly --

2 MS. FRANCIS: Objection.

3 BY MS. ROHN:

4 A. Monthly profit and loss statement, health safety  
5 and environmental records, financial accounting, budgeting.

6 Q. And why would you be reporting monthly profit and  
7 loss to VTTI?

8 MS. FRANCIS: Objection. Outside the scope.

9 BY MS. ROHN:

10 Q. You may answer. Go ahead, you can answer.

11 A. Every entity rolls up into, you know, a V -- it's  
12 a VTTI reporting. I don't know how to answer other than  
13 that's every terminal does that.

14 Q. Where did IPOS receive its funding to operate?

15 MS. FRANCIS: Objection. Outside the scope.

16 BY MS. ROHN:

17 Q. You may answer.

18 A. In the U.S. Virgin Islands.

19 Q. How did it obtain its funding?

20 A. Vitol would make monthly payments to the  
21 U.S. Virgin Islands bank account.

22 Q. Why did you report budgets to VTTI?

23 MS. ROHN: Somebody's got their microphone on.

24 Somebody is not on mute.

25 MS. FRANCIS: Yes, I'm not on mute because I

28

1 need to make objections.

2 Objection.

3 MS. ROHN: There is some reverberation going  
4 on.

5 MR. SIMPSON: I'm not hearing anything.

6 BY MS. ROHN:

7 Q. I'm sorry. I didn't hear your answer as to why  
8 you reported budgets to VTTI.

9 MS. FRANCIS: Asked and answered.

10 BY MS. ROHN:

11 Q. You may answer.

12 A. VTTI is the -- the company that -- that handles  
13 all the accounting, the -- the supervision.

14 Q. What kind of supervision?

15 A. Well, service level agreements to provide  
16 accounting support, health, safety and environmental  
17 support, technical support.

18 Q. Did it provide human resource support?

19 A. If necessary, yes.

20 Q. And what sort of human resource support did it  
21 provide?

22 MS. FRANCIS: Objection. Outside the scope of  
23 the notice.

24 BY MS. ROHN:

25 Q. You may answer.

29

1 A. More limited because of the fact it would be on  
2 the onboarding process, and we could -- the most times if  
3 there was, you know, a labor issue, we would use local  
4 counsel, as they had more expertise.

5 Q. Who would pay the local counsel?

6 MS. FRANCIS: Objection. Do not answer that.

7 That is outside the scope of the notice.

8 MS. ROHN: You can't direct him not to answer.

9 He is allowed to answer of his own personal knowledge,  
10 and you and I both know that.

11 BY MS. ROHN:

12 Q. Answer my question, please.

13 MS. FRANCIS: Don't speak to me like that,  
14 Attorney Rohn. This is a court proceeding.

15 BY MS. ROHN:

16 Q. Answer my question, please.

17 A. IPOS.

18 Q. So other than onboarding employees for IPOS, did  
19 it give any other human resource assistance?

20 A. Not that I'm aware.

21 Q. And when the decisions were contemplated about  
22 Petro, whether or not to cancel its contract, what  
23 involvement did VTTI have?

24 A. I don't know specifically VTTI. However, we used  
25 support based upon other agreements to help us, technical

30

1 support; but I made the decision myself.  
 2 Q. Who's Garry Stoker?  
 3 A. He was the chief operating officer.  
 4 Q. For whom?  
 5 A. I'm not sure. I don't know what entity he works  
 6 for.  
 7 Q. At the time in 2021, who did he work for?  
 8 A. Again, I don't know the specific corporate entity  
 9 he works for.  
 10 Q. Can you tell me why Garry Stoker was copied on  
 11 e-mails concerning whether or not to terminate Petro?  
 12 MS. FRANCIS: Objection. Foundation.  
 13 Misstates the record. No document --  
 14 BY MS. ROHN:  
 15 Q. You can answer.  
 16 MS. FRANCIS: -- was put in front of the  
 17 witness.  
 18 BY MS. ROHN:  
 19 Q. You can answer.  
 20 A. He provided -- he provided operational support  
 21 for the terminal. He is an engineer; has more technical  
 22 knowledge than I have.  
 23 Q. How long had you known Garry Stoker?  
 24 A. Maybe during the initial interviewing process; so  
 25 maybe three or four months prior to my start date in May

32

1 said -- wanted to know if you would sign a contract with  
 2 his company directly, did you have any discussions with  
 3 anybody else about whether or not to do so?  
 4 A. No, I did not.  
 5 Q. Did you inform anybody else that you planned to  
 6 do so?  
 7 A. No, I did not.  
 8 Q. And when you say "we negotiated a contract," who  
 9 negotiated the contract?  
 10 A. Adrian and I.  
 11 Q. And who actually drafted the contract?  
 12 A. I drafted the contract.  
 13 Q. Had you ever drafted contracts like that before?  
 14 A. No, I had not.  
 15 Q. Did you have anyone look at the contract that you  
 16 drafted?  
 17 A. No, I did not.  
 18 Q. And if VTTI was giving assistance, why didn't you  
 19 have VTTI look at the contract?  
 20 MS. FRANCIS: Objection.  
 21 BY MS. ROHN:  
 22 Q. You may answer.  
 23 A. They did not have any U.S. based type of  
 24 contract.  
 25 Q. Did you consult with any attorney about the

31

1 of 2017.  
 2 Q. And how often did you interact with him?  
 3 A. Monthly.  
 4 Q. Are you familiar with a company called Petro?  
 5 A. Yes, I am.  
 6 Q. How are you familiar with Petro?  
 7 A. They provided maintenance support and project  
 8 support to the terminal.  
 9 Q. Were you involved in the determination to enter  
 10 into a contract with Petro on behalf of IPOS?  
 11 A. Yes, I was.  
 12 Q. And can you recall when the first contract  
 13 between IPOS and Petro occurred?  
 14 A. I don't know the exact date. The year was 2018.  
 15 Q. And how did it come about that IPOS contracted  
 16 with Petro?  
 17 A. After the hurricane we were looking for support,  
 18 and Adrian Melendez came to the terminal offering support  
 19 for recovery. At that time he had affiliated himself with  
 20 Vivot. And so we never signed a contract. We did make  
 21 payments, and they did repairs. And then he said he was  
 22 going to start his own company and would we consider  
 23 signing with him, and the answer was yes; and so we  
 24 negotiated a contract.  
 25 Q. Okay. Let me break that down. When he came and

33

1 contract?  
 2 A. No.  
 3 Q. Did you look at any other types of contracts in  
 4 order to come up with the contract?  
 5 A. Yes.  
 6 Q. And what types of contracts did you look at?  
 7 A. Existing IPOS contracts.  
 8 Q. With whom?  
 9 A. I don't recall.  
 10 Q. Did IPOS ever have a contract with Vivot?  
 11 A. No, they did not.  
 12 Q. The original contract with Petro, do you recall  
 13 how long it was for?  
 14 A. One year.  
 15 Q. And what was -- who -- why was it for a one-year  
 16 basis?  
 17 A. Yeah, that was what we agreed upon. I -- I don't  
 18 have a specific reason.  
 19 Q. Well, did any -- did Mr. Melendez from Petro in  
 20 any way draft that contract?  
 21 A. Uhm, it was given to him for comments. I do not  
 22 remember if any changes were made at that time.  
 23 Q. Were there discussions during the first contract  
 24 about giving a lower rate -- charging a lower rate for men  
 25 and equipment in order to get the contract?

34

1 A. No, there was not.

2 Q. What was the contract for? What work was Petro  
3 supposed to do?

4 A. General maintenance support as -- you know, for  
5 our capital budget -- for our budget.

6 Q. Were there any contracts at that time about  
7 supplying equipment?

8 A. No, there were not.

9 Q. And were there any contracts at that time about  
10 engaging in special projects?

11 A. No, there were not.

12 Q. And during that first year of -- that the  
13 contract -- the first year of contract, were you pleased  
14 with the services of Petro?

15 A. Yes, I was.

16 Q. And what about their services caused you to be  
17 pleased?

18 A. Uhm, they -- the workforce did good quality work  
19 for the embedded maintenance. It did what we needed. Up  
20 until then we had not had a maintenance department at all.  
21 We were still recovering from the hurricane and needed  
22 daily support, and they were able to provide that.

23 Q. How was Adrian Melendez to work with?

24 A. Fine.

25 Q. And what causes you to say fine?

36

1 that time, but ultimately I signed it.

2 Q. And what was in the contract regarding a  
3 possibility of -- of more than a year?

4 A. It said that the contract was one year, that  
5 either side could terminate with 60 days notice, and that  
6 the ability to continue on in the same terms until five  
7 years.

8 Q. And is it your -- was the ability to terminate  
9 with 60 days notice with or without cause?

10 A. Without cause.

11 Q. And was that contract ever renewed?

12 A. No. Well, no, it was not renewed.

13 Q. So it remained in effect?

14 A. That is correct.

15 Q. And during 2019 how would you describe whether or  
16 not you were pleased with the work done by Petro?

17 A. Again, it was performed to our satisfaction.

18 Q. And in 2019 were there any other contracts with  
19 Petro other than a maintenance?

20 A. Not with IPOS.

21 Q. Sorry. With Petro. Sorry. Were there any other  
22 contracts with Petro other than maintenance?

23 A. No other contracts with IPOS, no.

24 Q. Okay. Were there any contracts, to your  
25 knowledge, with Petro with any other company associated

35

1 A. There were no problems. There were -- it was a  
2 professional relationship.

3 Q. Well, did you form the opinion that he would go  
4 out of the way to try to do the job well?

5 MS. FRANCIS: Objection. Foundation.

6 BY MS. ROHN:

7 Q. You may answer.

8 A. I don't know that -- no, I don't know that I held  
9 that opinion. The job was done.

10 Q. Did there come a time that the Petro contract was  
11 renewed?

12 A. Yes, it was.

13 Q. And for how long was the next contract?

14 A. For -- it was a one-year contract with the  
15 possibility of extension.

16 Q. Would that have been in 2019?

17 A. Yes.

18 Q. And who negotiated that contract?

19 A. Adrian and I.

20 Q. When you say "Adrian and I," did he draft  
21 something and give it to you, or did you draft something  
22 and give it to him?

23 A. In this case he drafted that and gave it to me.

24 Q. And did you accept what he drafted?

25 A. I -- I don't recall if there were changes made at

37

1 with the terminals?

2 A. I don't know the answer to that. I was not privy  
3 to any other contracts.

4 Q. In 2019 did Pet -- well, did at some point did  
5 Petro also begin doing work for VVAC (sic)?

6 A. They performed other work. I don't know the  
7 entity, because I wasn't part of the contract.

8 Q. Well, who did they -- who did you understand that  
9 the work benefited that they did?

10 A. Yeah, a -- a Vitol entity on the island, but I  
11 don't know the name of the company.

12 Q. Did you ever have any meetings or dealing with  
13 that Vitol entity on the island?

14 A. Uhm, there were weekly project meetings and  
15 weekly operations meetings in which people from Vitol had  
16 participated.

17 Q. Who were the people from Vitol who participated?

18 A. Tim Kologinczak and Charlotte Horowitz,  
19 occasionally Sebastian Moretti but rarely. And  
20 Eduardo Garcia before he left Vitol. I don't know the  
21 year.

22 Q. And did they attend these weekly meetings?

23 A. Virtually, yes.

24 Q. What were the purpose of the weekly meetings?

25 A. IPOS had a contract, a service contract with



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1 VVIC.

2 Q. Wait. Sorry. You broke up. Had a service  
3 contract with who?

4 A. With VVIC, Vitol Virgin Islands Corporation, that  
5 supply services for WAPA. And so, therefore, there were  
6 discussions about how the operations were going, and all  
7 budgets were approved that way through WAPA.

8 Q. And what was -- what was the involvement of  
9 Tim K. or Charlotte or Sebastian or Eduardo in establishing  
10 those budgets?

11 MS. FRANCIS: Objection. Compound.

12 BY MS. ROHN:

13 Q. You may answer.

14 A. VVIC -- IPOS would prepare an annual budget. It  
15 was then submitted to VVIC, and then at some point in the  
16 future, we would get a either revised or approved budget  
17 based upon their discussions with WAPA. And that would set  
18 the basis for our budgets of the year.

19 Q. And you stated that IPOS got a monthly payment.  
20 Who did the monthly payment come from?

21 A. Again, I don't know the specific entity.

22 Q. Well, how -- what form did the payment come in?

23 A. It was a electronic wire transfer.

24 Q. You never looked to see who was transferring the  
25 funds?

39

1 A. No.

2 MS. FRANCIS: Objection. Argumentative.

3 BY MS. ROHN:

4 Q. You may answer.

5 A. I'm sure our finance manager did, but I did not  
6 go through individual bank statements, no.

7 Q. And who was your finance manager?

8 A. Kunal Patal.

9 Q. And who did he work for?

10 A. Seaport Canaveral.

11 Q. And how would someone working for

12 Seaport Canaveral be the finance manager for IPOS?

13 A. Again, we were a small entity, and so we needed  
14 finance work to be done, and so Seaport provided that  
15 accounting.

16 Q. And Seaport was ultimately controlled by VTTI; is  
17 that correct?

18 MS. FRANCIS: Objection.

19 BY MS. ROHN:

20 A. No, that's not correct.

21 Q. Okay. What involvement did VTTI have in Seaport?

22 MS. FRANCIS: Objection. Beyond the scope.

23 He's not here as a 30(b)(6) for Seaport Canaveral.

24 MS. ROHN: Noted.

25 BY MS. ROHN:

40

1 Q. Answer, please.

2 A. Again, I'm not sure the corporate hierarchy  
3 structure, but it's a VTTI company.

4 Q. At some point did -- from your observations, did  
5 Petro begin doing special projects at the propane  
6 terminals?

7 A. Yes. Petro had been involved in special  
8 projects.

9 Q. And were those special projects -- were any of  
10 those special projects for IPOS?

11 A. There -- so, yes, there could have been some  
12 special projects, but traditionally, those would fall under  
13 the maintenance budget. Any of the sort of projects were  
14 coordinated by Vitol for the most part. In some cases, it  
15 was assisting Vitol and WAPA.

16 Q. What do you mean "it was assisting Vitol and  
17 WAPA"? Who is it?

18 A. Petro.

19 Q. So why would those projects be under IPOS'  
20 budget?

21 A. They were not -- that's what -- they were not.  
22 Any of those projects were not under IPOS' budget.

23 Q. I thought you said that some of the special  
24 projects came under the IPOS budget. Am I incorrect?

25 A. No -- well, maybe -- maybe I misunderstood you.

41

1 You said was I aware of projects being done by Petro, and I  
2 said, yes, some were done for IPOS, some were done for  
3 Vitol, and -- a Vitol entity, and some were done in  
4 coordination for Vitol and WAPA.

5 Q. So how would it be determined which of the -- as  
6 to a special project whether or not it would be for IPOS or  
7 Vitol?

8 A. So, if it was not in our budget -- so, for  
9 example, a tank inspection is not a normal everyday  
10 maintenance work. So we would then have, you know, a  
11 purchase order; we have a quote beforehand in order to --  
12 to show specifically that this wasn't general maintenance.  
13 So that would be an IPOS project, for example.

14 Q. So would it be paid out of the IPOS budget?

15 A. Yes, it would.

16 Q. And what types of projects would be paid out of  
17 the Vitol project -- budget by Vitol?

18 A. I'm not really here to speak on behalf of Vitol.  
19 However, a project that they might be working on would be  
20 like the truck rack, a reverse load in which IPOS had no --  
21 had no interest, design, approval.

22 Q. Would that include the RIO shades?

23 A. The RIO shades was a Vitol project; correct.

24 Q. Was the No. 1-inch vent line a Vitol project?

25 A. The 1-inch and the 3-inch vent line, yes, were

42

1 Vitol projects.

2 Q. So in 2020 were you satisfied with the work Petro  
3 did for IPOS?

4 A. For the maintenance work, yes.

5 Q. And in either 2018, 2019, or 2020, did you  
6 receive any complaints from any -- from Vitol about any  
7 work that Petro had done?

8 A. I don't know what work was done by Petro on  
9 behalf of Vitol during that period.

10 Q. Well, did you -- you, as the general manager of  
11 IPOS, did you ever receive any criticism from Vitol about  
12 Petro?

13 MS. FRANCIS: Objection. Form.

14 BY MS. ROHN:

15 Q. You may answer.

16 MS. FRANCIS: It's so broad it does not permit  
17 an answer.

18 MS. ROHN: Please stop making speaking  
19 objections.

20 BY MS. ROHN:

21 Q. You may answer.

22 A. So who do you consider a representative of Vitol?

23 Q. No, who do you consider a representative of  
24 Vitol?

25 A. Well, I mean, we've gone through different names.

43

1 I'm trying to understand where the concern might be. I'm  
2 not sure who you mean. And it's three years.

3 Q. Charlotte, Sebastian, Eduardo, or Tim K.

4 A. No.

5 Q. In 2021 did -- were you satisfied with the work  
6 that was done by Petro? You being IPOS.

7 A. For the maintenance work, yes.

8 Q. Was there any other work you were unsatisfied  
9 with?

10 A. No.

11 Q. In 2021 did you receive or learn of any criticism  
12 by Vitol of the work being done by Petro?

13 A. By the names said earlier, no.

14 Q. So are you aware of a company called OPTIS?

15 A. Yes, I am.

16 Q. How are you aware of OPTIS?

17 A. OPTIS was initially brought in prior to my  
18 arriving to help with the commissioning of the facility.

19 Q. And who brought them in?

20 A. The construction entity.

21 Q. Which was who?

22 A. I believe VT -- part of VTTI. I don't know which  
23 entity name.

24 Q. And so, as we say in the Virgin Islands, you met  
25 OPTIS there?

44

1 A. That's correct.

2 Q. And who from OPTIS was the person or persons that  
3 were there?

4 A. It was Glenn Sibbick, as he was leaving, and  
5 Andrew Canning, and there was another gentleman named Mark  
6 that had come and gone as part of commissioning and restart  
7 that was part of OPTIS as well. I don't remember his last  
8 name.

9 Q. And what is your understanding of what type of  
10 company OPTIS is?

11 A. An engineering company.

12 Q. And when you were first made general manager in  
13 2017, did -- was -- was OPTIS already formed or had already  
14 been established, or was OPTIS formed at that point?

15 MS. FRANCIS: Objection. Form.

16 BY MS. ROHN:

17 A. Yeah, I'm not sure I understand your question,  
18 ma'am.

19 Q. When was OPTIS -- excuse me. When was IPOS  
20 formed?

21 A. 2014.

22 Q. And what was the purpose of OPTIS -- I'm sorry,  
23 of IPOS?

24 A. Yes. It was established as an LLC established on  
25 the Virgin Islands to -- to work in WAPA to vaporize

45

1 propane for the WAPA terminal for power generation.

2 Q. And in 2017 when you got there, what was the work  
3 that IPOS was doing at that time?

4 A. So the plans had been commissioned; so it was  
5 operating, again, taking liquid propane in, vaporizing it,  
6 handing it off to WAPA, again, oversimplifying, and then  
7 WAPA would generate the power in -- in that way.

8 Q. And when you took over in 2017, who was doing the  
9 work for maintenance for IPOS?

10 A. There was no maintenance company established at  
11 that point. There was still construction punch list work  
12 being done.

13 Q. When approximately was it first decided that  
14 there -- IPOS would benefit from having a maintenance  
15 company?

16 A. After the hurricanes in September 2017, it was --  
17 it was actually not decided for a maintenance company, but  
18 it was a recovery, rebuild, restore, and regenerate, that's  
19 when the work started then. And then that transitioned,  
20 again, into 2018 with Vivot as a maintenance contractor.

21 Prior to that they had only done civil work. Adrian  
22 represented that they would do mechanical work. And when  
23 he had said that he was going on his own, that's when we  
24 discussed it in 2018.

25 Q. Did you have any discussions with any other

46

1 persons, including was it discussed at the weekly meetings  
2 with Vitol your intention to hire a maintenance company?

3 A. No.

4 Q. Why wouldn't you discuss that at a weekly  
5 meeting?

6 A. I had a budget with Vitol, and as long as I met  
7 the budget, it was IPOS' decision on how we executed that  
8 budget.

9 Q. Did there come a time that the personnel working  
10 for IPOS changed from Glenn, Andrew, and Mark?

11 MS. FRANCIS: Objection. Foundation.

12 BY MS. ROHN:

13 Q. You may answer.

14 A. Glenn, Andrew, and Mark never worked for IPOS.

15 Q. OPTIS. Sorry. OPTIS.

16 A. Okay, can you repeat that then?

17 Q. Sure. Did the personnel working for OPTIS,  
18 working for OPTIS but at IPOS, change any after you came  
19 there?

20 A. Glenn and Mark had left because the facility was  
21 commissioned, and Andrew stayed for the punch list work  
22 that was agreed upon between IPOS -- well, between Vitol  
23 and WAPA, what was still remaining from the construction.

24 Q. During the time that Glenn, Andrew, and Mark were  
25 there, did they have a contract with IPOS, or did IPOS have

47

1 a contract?

2 A. They did not.

3 Q. Did OPTIS have a contract with IPOS at that  
4 point?

5 A. It did not.

6 Q. At what point, if ever, did OPTIS obtain a  
7 contract with IPOS?

8 A. We did not.

9 Q. So OPTIS never had a contract with IPOS?

10 A. That is correct.

11 Q. Who is it your understanding OPTIS had a contract  
12 with?

13 A. The construction entity.

14 Q. The VTTI construction entity?

15 A. That's correct.

16 Q. So is it your testimony that from 2017 until  
17 2021, OPTIS never contracted with IPOS?

18 A. That is correct.

19 Q. Did OPTIS do -- through Andrew Canning, do work  
20 for IPOS?

21 A. Yes.

22 Q. And how did it come about that even though OPTIS  
23 didn't have a contract with IPOS, Andrew Canning was doing  
24 work with IPOS?

25 A. After the VTTI construction entity left after the

48

1 contract, the payments -- or the invoices came direct to  
2 IPOS, and we made those payments.

3 Q. But there was no contractual agreement?

4 A. No, ma'am.

5 Q. Was there a verbal contractual agreement?

6 A. No, ma'am.

7 Q. So, from your understanding as IPOS, how did  
8 Mr. Canning know what to do?

9 A. Well, we had the punch list and the work that  
10 needed to be done when he initially got there. And then  
11 also during the hurricane, the punch list work, a lot of it  
12 was long-term items, and then also during the hurricane,  
13 was recovery efforts as well.

14 Q. How would he know what to do in the recovery  
15 efforts?

16 A. Well, we --

17 MS. FRANCIS: Objection. Calls for  
18 speculation as to Mr. Canning's knowledge.

19 BY MS. ROHN:

20 Q. What did you observe as to how Mr. Canning would  
21 know what to do?

22 MS. FRANCIS: Same objection.

23 BY MS. ROHN:

24 A. Yeah. He was involved --

25 Q. You may answer.

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1 A. He was involved in the meetings.

2 Q. Okay. What was your understanding of the scope  
3 of work that IPOS paid -- did IPOS pay Mr. Canning  
4 directly, or did they pay OPTIS?

5 A. Paid OPTIS.

6 Q. What was the understanding the scope of the work  
7 that OPTIS was doing for IPOS after the hurricane?

8 A. It was a day rate for providing services. So  
9 essentially what -- whatever work needed to be done, we  
10 could have done.

11 Q. And who would tell Mr. Canning what work needed  
12 to be done?

13 A. Well, that would -- that would ultimately fall to  
14 my responsibility.

15 Q. And did that stay true through 2019?

16 A. Yes, that's correct.

17 Q. Did the budget for -- did IPOS put in its budget  
18 funds to pay OPTIS?

19 A. Yes, it did.

20 Q. And did that increase any between 2018 and 2020?

21 A. I'm sorry. Can you restate that? I don't --

22 Q. Did that -- that budget item as to OPTIS increase  
23 any between 2018 and 2020?

24 MS. FRANCIS: Objection. Relevance.

25 BY MS. ROHN:



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1 A. No.  
 2 Q. So it stayed relatively the same?  
 3 A. Correct.  
 4 Q. At some point did IPOS stop paying OPTIS out of  
 5 its budget?  
 6 A. Yes.  
 7 Q. And when did that occur?  
 8 A. Uhm, it would be the fiscal year -- I'm sorry.  
 9 Let me think for a second. I don't want to answer  
 10 incorrectly.  
 11 So the budget that started July 1, 2020, is when the  
 12 assignment went over, I believe.  
 13 Q. And it went over to --  
 14 A. I may need to look at the budget. I'm -- I'm not  
 15 sure. I might have that -- that mistaken.  
 16 Q. So and went over to whom?  
 17 A. At that point it was taken out of the IPOS  
 18 budget, and so Vitol -- a Vitol entity made those payments.  
 19 Q. Was that at the request of IPOS?  
 20 A. It was at the request of Vitol.  
 21 Q. Do you know why Vitol made that request?  
 22 A. Yes.  
 23 Q. And why was that?  
 24 A. So there were several capital type projects, for  
 25 example, Aggreko, APR, reverse flow, truck rack, several

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1 contracts with Vitol?  
 2 A. I don't know the answer to that.  
 3 Q. While Petro was contracted to IPOS, did Petro do  
 4 work for Vitol?  
 5 A. Yes.  
 6 Q. And who paid for that work?  
 7 A. In some cases it was billed to IPOS, and it was  
 8 outside of the budget. It was a reimbursable pass-through,  
 9 and in some cases it was paid direct by a Vitol entity.  
 10 Q. And did IPOS have to agree to allow Petro to do  
 11 that work rather than doing the work for IPOS?  
 12 MS. FRANCIS: Objection. Form.  
 13 BY MS. ROHN:  
 14 A. I'm sorry. Can you -- can you restate that,  
 15 please?  
 16 Q. Well, in Petro doing work for Vitol, did that  
 17 affect Petro's ability to do the maintenance work for IPOS?  
 18 MS. FRANCIS: Objection. Calls for  
 19 speculation.  
 20 BY MS. ROHN:  
 21 Q. You may answer.  
 22 MS. FRANCIS: He's not here as a Petro  
 23 witness.  
 24 MS. ROHN: Not even remotely what I asked.  
 25 BY MS. ROHN:

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1 projects that IPOS were not part of the scope of IPOS to  
 2 perform, and IPOS did not have the technical knowledge and  
 3 did not want to do those projects. So then those were  
 4 directly contracted for Vitol to WAPA.  
 5 Q. And so why was it then in 2020 that OPTIS stopped  
 6 working for IPOS? There's too many words that are really  
 7 similar. So OPTIS to IPOS?  
 8 A. Well, Andrew at that point was the only OPTIS  
 9 employee; so, therefore, as his services were no longer  
 10 necessary at IPOS and were not in our budget, that's why we  
 11 stopped making payments to OPTIS.  
 12 Q. Did Mr. Canning continue to go to the weekly  
 13 meetings?  
 14 A. So there were two different weekly meetings.  
 15 There was an operation meeting and a maintenance technical  
 16 project meeting. So he did not attend, and he never  
 17 attended -- or let me say not never, but was not expected  
 18 ever to attend the operational meetings. But the technical  
 19 meetings, yes, he still attended.  
 20 Q. And did he still give advice to IPOS?  
 21 A. If asked.  
 22 Q. Well, were there occasions when he volunteered  
 23 advice to IPOS?  
 24 A. Uhm, possibly. I don't remember specifics.  
 25 Q. To your knowledge, did Petro ever have any

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1 Q. When Petro was doing work for Vitol, did it  
 2 affect its ability to do the work that IPOS needed to have  
 3 done?  
 4 A. They were different crews. So our embedded  
 5 people stayed with the IPOS work.  
 6 Q. And do you know how it would be decided whether  
 7 or not it would be billed to IPOS as a pass-through or when  
 8 Vitol would actually just pay it?  
 9 A. I'm sorry. Can you restate -- restate that again  
 10 one more time?  
 11 Q. Do you know the basis of the decision of whether  
 12 it would be billed to IPOS as a pass-through or that Vitol  
 13 would pay it directly?  
 14 A. Not really. Sometimes the invoices were  
 15 submitted on behalf of Petro to us, sometimes direct to  
 16 Vitol, and we try to work it out to make sure that they  
 17 were getting paid.  
 18 Q. And who would you have to try to work it out  
 19 with?  
 20 A. So with Petro and with a Vitol entity.  
 21 Q. And who would you work that out through for the  
 22 Vitol entity?  
 23 A. Charlotte and Tim. And Eduardo when he was  
 24 there.  
 25 Q. What type of --

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1 (Interruption by the court reporter.)

2 BY MS. ROHN:

3 Q. What type of technical work was Canning supposed  
4 to provide to IPOS?

5 MS. FRANCIS: Objection. Foundation.

6 BY MS. ROHN:

7 A. So, again, when he initially was there, it was  
8 for punch list work, still related to construction.

9 Shortly after my arrival, in fact within four months, three  
10 months is when the hurricane happened, and immediately had  
11 switched over to recovery and support and restart work. So  
12 those were the things that he was assisting with.

13 Q. Did he ever assist with anything besides  
14 recovery?

15 A. Punch list work, yes.

16 Q. What else did he --

17 A. Initially we did not have a maintenance  
18 supervisor. We -- Calvin Schmidt, who you asked about  
19 earlier, is a former Petro employee, and we hired him as  
20 maintenance supervisor. So Andrew did help support some  
21 maintenance work prior to Calvin coming on board.

22 Q. And what did he do to support that?

23 A. Whatever was required.

24 Q. Well, what types of things?

25 A. I mean, if it's general maintenance, it's

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1 ensuring that the work is prepared, that it's isolated,  
2 it's locked out, it was permitted correctly through the  
3 operations team, that the work -- the work was completed  
4 satisfactorily and safely, at the end of it that the area  
5 was cleaned.

6 Q. So that's how Mr. Canning would support  
7 maintenance work; is that right?

8 A. Correct.

9 Q. Okay. And then when Mr. Schmidt was hired, what  
10 was -- what work did Canning do on behalf of IPOS --  
11 Canning through OPTIS on behalf of IPOS?

12 A. Project-related work.

13 Q. And in what way was he supposed to support  
14 project-related work?

15 A. Again, as I mentioned a few minutes ago, there  
16 were different crews for different work. So the embedded  
17 everyday maintenance were -- were less skilled, let's say,  
18 you know, laborers, boilermakers, pipefitter types that  
19 were doing general maintenance, painting, you know, support  
20 in there and so there -- but there were also projects I  
21 mentioned, for example, the vessel inspection and some --  
22 some of the other projects that were discussed earlier.

23 Q. So did -- was Canning supposed to supervise the  
24 work done by Petro?

25 A. He's supposed to oversee, because even still, our

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1 maintenance contractors don't supervise. They oversee. We  
2 hire a company to do the job.

3 Q. Well, he was to oversee the work done by Petro.  
4 Would that be fair?

5 A. That would be fair.

6 Q. And would that include both the projects work and  
7 the maintenance work?

8 A. Again, it depended on the time period. Once we  
9 had Calvin in place and Coury in place in St. Thomas, it  
10 would be project work.

11 Q. And were there any guidelines in place, whether  
12 verbal or written, as to the manner in which Canning should  
13 oversee the projects work of Petro?

14 A. Not to my knowledge.

15 Q. And who was Canning to report to as to his  
16 overseeing the work of Petro?

17 A. While OPTIS was paid by IPOS, that reported to  
18 me. Afterwards it reported to Vitol when Vitol started  
19 paying.

20 Q. At some point did he report to Mr. -- I like to  
21 call him Merlin, because I always botch his last name.

22 A. Yeah, so Merlin was day-to-day on the site, but  
23 ultimately I was the responsible party. So as an acting  
24 terminal manager, yes, he did work with Merlin daily more  
25 so than me when I was not there.

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1 Q. And at any point did Mr. Canning begin to  
2 complain about the work done by Petro?

3 A. Uhm, there -- there's always issues that can come  
4 up, and that's with any contractor for -- in any industry.

5 Q. Did there come a time when you noted that  
6 Mr. Canning's complaints about Petro increased?

7 MS. FRANCIS: Objection. Foundation.

8 BY MS. ROHN:

9 Q. I'm sorry. Can you state your answer again?

10 A. No, I did not notice a noted increase.

11 Q. Was it Mr. Canning's job to oversee the work done  
12 by Merlin?

13 A. No.

14 Q. Did there come a time when Mr. Canning began  
15 reporting to you about things that he perceived that Merlin  
16 was not properly doing?

17 A. There were times, yes.

18 Q. And do you have any understanding of why  
19 Mr. Canning felt like that was something he should report  
20 to you?

21 A. No.

22 Q. Did you ever ask him to do that?

23 A. No.

24 Q. Did you ever tell him, I'm not interested in  
25 having you do that?

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1 A. No.

2 Q. Did you draw the conclusion that there was a cold  
3 war going on between Merlin and Mr. Canning?

4 A. I know you're referring to a e-mail that I had  
5 sent, and -- and it's a matter of context. But I'm sure  
6 we're going to talk about it; so I don't know if now is the  
7 time, or how you'd like me to address that.

8 Q. Well, I'm kinda edging into it now.

9 A. Okay. You know the reality is, similar to a lot  
10 of professions, they were both engineers. And you can put  
11 ten engineers in a room, and they have ten different ideas  
12 on how to make something happen, and they can all be right.  
13 So I'm not an engineer; so, therefore, that's the way I  
14 understood the code was, they approached projects,  
15 engineering differently. That's not to say one's right and  
16 one's wrong, but it can cause friction.

17 Q. Well, did Mr. Canning make derisive comments  
18 about Mr. Merlin's ability to be a manager?

19 MR. SIMPSON: Objection.

20 BY MS. ROHN:

21 A. I can't speak to -- my definition of derisive may  
22 be different than yours; so I would say no.

23 Q. Well, have you seen e-mails or did you receive  
24 e-mails where he would complain as to Merlin's interactings  
25 with Petro and then make statements like, But he's your --

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1 But he's your manager?

2 MR. SIMPSON: Objection.

3 MS. FRANCIS: Objection to the extent that  
4 misstates the record and does not refer this witness  
5 to any specific document.

6 BY MS. ROHN:

7 Q. You may answer.

8 A. Yeah, I'd need to see specifically what you're  
9 talking about to understand context.

10 Q. Well, we're about to -- at some point today, we  
11 will get to the e-mails. I'm just trying to get a general  
12 feel for it.

13 Did you ever suggest to Mr. Canning that his comments  
14 about Mr. Merlin were inappropriate?

15 A. Sorry. The network was spinning.

16 Q. I'm sorry. I couldn't hear you.

17 A. No. No. Something happened with the network.  
18 It froze up for a second. Could you repeat that? I'm  
19 sorry.

20 Q. Yes. Did you ever suggest to Mr. Canning that  
21 his comments about Mr. Merlin were inappropriate?

22 A. Not that I can recall.

23 Q. What is your understanding of the racial  
24 background of Mr. Merlin?

25 A. He is an American citizen. He was born somewhere

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1 in Africa and is of Indian descent. But I don't know  
2 specifics.

3 Q. Did Mr. Canning ever complain to you about  
4 Mr. Schmidt?

5 A. No.

6 Q. And is it your testimony Mr. Schmidt never  
7 complained to you about Mr. Canning?

8 A. Yes.

9 Q. So we've been going on for over an hour and a  
10 half. Would you like a short break, sir?

11 A. Sure, that would be fine.

12 Q. And by the way, I didn't get to go through the  
13 what is a deposition since you've been deposed before.  
14 But, Mr. Smith, this is not an endurance test. So anytime  
15 you need a break, just let me know.

16 A. Okay.

17 MS. ROHN: So shall we take 10 minutes?

18 MS. FRANCIS: That's fine.

19 MS. ROHN: Okay. We'll be back in 10 minutes.

20 (A recess was taken at this time.)

21 BY MS. ROHN:

22 Q. So let me ask you, where are you currently?

23 A. Miami, Florida.

24 Q. And is anybody in the room with you?

25 A. Counsel.

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1 Q. And where in Miami, Florida, are you?

2 A. At the counsel's offices. I don't know the exact  
3 address.

4 Q. Do you have any notes in front of you?

5 A. I do not.

6 Q. So as to Mr. Canning, what in regards to -- you  
7 said he was in charge of overseeing the work done by  
8 Mr. Petro -- by Petro. Did that include approving time  
9 sheets?

10 A. It approved -- include -- included approving  
11 invoices, yes.

12 Q. No, I'm talking about time sheets.

13 A. Well, an invoice is time sheets, consumables, you  
14 know, corporate overhead. So, yes, every portion of the  
15 invoice that was presented to us had all of those in there;  
16 so yes.

17 Q. So now you actually, am I correct, as to  
18 maintenance work, had Calvin Schmidt, who was supposed to  
19 be overseeing the Petro maintenance work. Would that be  
20 fair?

21 A. Well, yes, and, again, it gets back to the timing  
22 before Calvin, and there was no maintenance supervisor,  
23 then -- and most of that was project work coming out of the  
24 hurricane, then that, even in St. Thomas, all fell towards  
25 Andrew. But when Calvin started, yes, it was transitioned

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1 to just time sheets for maintenance and time sheets for  
 2 projects, and they were separated then.  
 3 Q. And Calvin Schmidt was, am I correct, responsible  
 4 for approving the maintenance time sheets for Petro?  
 5 A. For St. Croix. For St. Croix, that's correct.  
 6 Q. And Coury Hodge, am I correct, was in charge of  
 7 overseeing or approving the maintenance time sheets in St.  
 8 -- for Petro; correct?  
 9 A. That's correct.  
 10 Q. So did Andrew Canning have the ability to  
 11 overrule the approval of Calvin or Coury's approval of  
 12 Petro's time sheets as to maintenance?  
 13 A. No.  
 14 Q. Did he in fact do that?  
 15 A. No.  
 16 Q. And as to the invoices submitted by Petro as to  
 17 maintenance, did Canning have the -- as part of oversight,  
 18 the ability to approve or disapprove of those invoices?  
 19 A. Again, you need to be specific on timing. Prior  
 20 to Calvin --  
 21 Q. After Calvin Schmidt.  
 22 A. After Calvin, no.  
 23 Q. Did he in fact refuse to approve invoices after  
 24 Calvin Schmidt?  
 25 A. You're specifically asking me about maintenance.

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1 contract was the No. 3 vent line? Would that be fair?  
 2 A. Yes.  
 3 Q. And the No. 3 vent line was a Vitol project;  
 4 correct?  
 5 A. Yes.  
 6 Q. So why would IPOS terminate Petro's contract over  
 7 work that Petro was doing for Vitol?  
 8 A. IPOS still had the operational responsibility for  
 9 ensuring the project was completed safely, and that's part  
 10 of our contract with VVIC. When we were unable to  
 11 determine the qualifications of the welders related to that  
 12 project, it was a loss of trust for the entire -- we tried  
 13 multiple times in order to ask for documentation and was  
 14 never provided.  
 15 Q. But that documentation was documentation  
 16 concerning welders that were working on a Vitol project;  
 17 correct?  
 18 A. But still on the IPOS and WAPA facility. Yes.  
 19 Q. Well, IPOS doesn't own that facility, does it,  
 20 sir?  
 21 A. No. But we are responsible for it -- were  
 22 responsible for it.  
 23 Q. Who at IPOS was the QA/QC?  
 24 MS. FRANCIS: Objection. Form.  
 25 BY MS. ROHN:

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1 No.  
 2 Q. Did Mr. Canning as part of his oversight have the  
 3 ability to approve or disapprove invoices, for lack of a  
 4 better word, for operations versus maintenance?  
 5 A. There were no operations. What I'm referring to  
 6 was projects.  
 7 Q. Did he have the ability to over -- as part of his  
 8 oversight, to approve or disapprove invoices as to  
 9 projects?  
 10 A. Yes.  
 11 Q. And who gave him that authority?  
 12 A. Most of those projects were for Vitol; so then  
 13 Vitol would have given him the approval on that.  
 14 Q. So would that include those that were passed  
 15 through for IPOS?  
 16 A. Yes.  
 17 Q. So in the -- to the extent that he was -- Canning  
 18 was disapproving contracts for projects, was he doing that  
 19 for IPOS or was he doing that for Vitol?  
 20 A. For Vitol.  
 21 Q. You had stated at some point you made the  
 22 determination to terminate Petro; correct?  
 23 A. Yes.  
 24 Q. And would it be fair to say that the work that  
 25 was in question that led to the termination of the Petro

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1 Q. You may answer.  
 2 A. Uhm, it -- there -- there was no officially  
 3 appointed person. It was a combination of Merlin and  
 4 Andrew, depending on the work.  
 5 Q. And what was your understanding of the  
 6 qualifications of Canning to be a QA?  
 7 A. My understanding is that he's an engineer and has  
 8 done this for multiple years.  
 9 Q. You understand whether or not he has any  
 10 particular welding knowledge?  
 11 A. Not to my knowledge.  
 12 Q. So where was IPOS incorporated?  
 13 A. U.S. Virgin Islands. It's not incorporated.  
 14 It's a LLC.  
 15 Q. Okay. And who are or were its members?  
 16 A. Vitol -- sorry. VTSSBV.  
 17 Q. VTSSBV?  
 18 A. Yes.  
 19 Q. Okay. What does --  
 20 A. It's VTTI -- VTTI Terminal Services B.V.  
 21 Q. VTTI Terminal Services B.V. What does B.V. stand  
 22 for?  
 23 A. A Netherlands incorporation. I don't know  
 24 specifically the dutch word for it.  
 25 Q. And where is V -- VTT -- was it VTTI or VTT

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1 Terminals?  
 2 A. VTTI Terminals, but VTSS is the acronym, I guess,  
 3 similar to IPOS.  
 4 Q. Okay. I don't know about you, but all these  
 5 initials driving me crazy.  
 6 A. Agreed.  
 7 Q. Where is VTTI Terminal Services out of?  
 8 MS. FRANCIS: Objection. Beyond the scope of  
 9 the notice. This witness --  
 10 BY MS. ROHN:  
 11 Q. You may answer.  
 12 MS. FRANCIS: -- is not a designee of another  
 13 entity.  
 14 BY MS. ROHN:  
 15 A. I don't know.  
 16 Q. So is there any other member besides  
 17 VTTI Terminal Services?  
 18 A. No.  
 19 Q. And has VTTI Terminal Services been the sole  
 20 member since it was created?  
 21 A. Yes.  
 22 Q. And is -- does IPOS currently exist?  
 23 A. Yes.  
 24 Q. And what work does IPOS do now?  
 25 A. Currently no work at all.

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1 MS. FRANCIS: Objection. Scope.  
 2 BY MS. ROHN:  
 3 A. No, I did not.  
 4 Q. Do you have any knowledge as to why they decided  
 5 -- it was decided not to renew the contract?  
 6 A. No, I do not.  
 7 Q. Did you ever give any opinions or advice as to  
 8 whether or not to not renew the contract?  
 9 A. I'm sorry. You broke up there. Can you repeat  
 10 that one?  
 11 Q. Did you ever give any advice or guidance or  
 12 discussions about not renewing the contract with anyone?  
 13 A. No, I did not.  
 14 Q. And does IPOS -- did or does IPOS have any  
 15 subsidiaries?  
 16 A. No, it does not.  
 17 Q. Does it have any affiliates?  
 18 A. No, it does not.  
 19 Q. And who is its parent company?  
 20 A. Again, that would be -- it's not incorporated,  
 21 but it would be VTSS, VTTI Terminal Services B.V.  
 22 Q. And did IPOS have -- was IPOS a member or  
 23 participant in any services -- service agreements?  
 24 A. Yes.  
 25 Q. Okay. And with whom?

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1 Q. Does it have any employees at all?  
 2 A. No, it does not.  
 3 Q. Does it have any assets?  
 4 A. No, it does not.  
 5 Q. And when did it cease operating?  
 6 A. July 1, 2022, or June 30, 2022.  
 7 Q. And why did it stop existing -- or operating?  
 8 Sorry.  
 9 A. Our service agreement expired, and it was not  
 10 extended.  
 11 Q. The service agreement was with whom?  
 12 A. Vitol Virgin Islands Corp., VVIC.  
 13 Q. Prior to June 30th of 2022, did you know that the  
 14 contract was not going to be renewed?  
 15 A. I knew when the period to effect the renewal  
 16 wasn't given, yes, then as of then.  
 17 Q. And when was that?  
 18 A. I don't know the exact date. It is in the  
 19 contract but I don't know the exact date.  
 20 Q. Do you remember what --  
 21 A. Six months prior approximately they had to give  
 22 notice to renew. It was a unilateral.  
 23 Q. Did you ever discuss with anyone why they were  
 24 not going to renew the IPOS contract?  
 25 A. No, I --

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1 A. With VVIC. And then also a service agreement for  
 2 VTTI to provide the services we discussed earlier, like HR  
 3 and IT and --  
 4 Q. And what was the scope of its service agreement  
 5 with VVIC?  
 6 A. Again, to -- to -- to staff, to operate, to  
 7 provide annual budgets, to operate a safe, efficient,  
 8 reliable operation, and, you know, and then reimbursable  
 9 budgeting and -- and submission, yeah.  
 10 Q. I'm sorry. The last word broke up. What was the  
 11 last word?  
 12 A. I said and -- and submission of reporting and  
 13 running a safe facility.  
 14 Q. And the facility being the propane terminals?  
 15 A. That's correct.  
 16 Q. And does IPOS currently still have a service  
 17 agreement with VTTI Services?  
 18 A. No, it does not.  
 19 Q. When did that end?  
 20 A. Uhm, I -- I don't know the date.  
 21 Q. Before or after the contract with IPOS was not  
 22 renewed?  
 23 A. After the contract.  
 24 MS. FRANCIS: Objection. Misstates the  
 25 record.



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1 BY MS. ROHN:

2 Q. Do you know how long after that contract?

3 A. I do not.

4 Q. Are you aware of whether or not any of the  
5 affiliates of IPOS have ever entered into any consent  
6 judgments regarding illegal activities?

7 A. I'm sorry. I don't know what that means.

8 Q. So, for instance, Vitol Inc. has entered into  
9 consent judgments as to bribery. Are you aware of any --  
10 of any other affiliates or parents of IPOS or VVIC who have  
11 entered into similar consent --

12 A. I --

13 MS. FRANCIS: Objection. Form. Compound.  
14 Objection. Foundation to the extent it misstates the  
15 record concerning any relationship between IPOS and  
16 VVIC.

17 BY MS. ROHN:

18 Q. You may answer.

19 A. I'm not aware of any.

20 Q. Other than yourself with your -- other than  
21 yourself and Mr. Adrian Melendez in negotiating the  
22 contracts between Petro and IPOS, was anybody else involved  
23 in the negotiations of those contracts?

24 A. No.

25 Q. So in the First Amended Complaint in paragraph

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1 15, Petro has alleged that "Petro and IPOS discussed Petro  
2 doing business for IPOS, and Petro informed IPOS that  
3 because Petro wanted a chance to do the business and show  
4 IPOS what it could -- what it could do, it gave IPOS  
5 reduced rates on the initial contract in exchange for a  
6 minimum five-year contract."

7 That has been denied. What facts do you rely on for  
8 that denial?

9 A. That conversation never happened.

10 Q. Have you reviewed e-mails where you asked Petro  
11 to lower its rates in exchange for renewal of contracts?

12 A. I'm not familiar with that, no.

13 MS. FRANCIS: Objection.

14 BY MS. ROHN:

15 Q. Personally, how did you and Adrian Melendez get  
16 along?

17 A. Personally, very well.

18 Q. And were you friends?

19 A. Yes. I would say yes.

20 Q. Did you consider him to be an honest person?

21 MS. FRANCIS: Objection.

22 MS. ROHN: Noted.

23 MS. FRANCIS: Foundation.

24 BY MS. ROHN:

25 Q. You can answer.

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1 A. Mostly.

2 Q. Did you consider him to be a person with  
3 integrity?

4 MS. FRANCIS: Again, objection. Lack of  
5 foundation as to personal knowledge.

6 BY MS. ROHN:

7 A. Mostly.

8 Q. You may answer.

9 When you say "mostly," what did you think he wasn't  
10 honest about?

11 A. Well, for example, on a personal basis, if I may?

12 Q. Uh-huh.

13 A. So when we left I had a smoker that I was trying  
14 to give to Calvin Schmidt, and Adrian picked it up, kept it  
15 for himself. Calvin was too afraid to approach him to ask  
16 for it.

17 Q. And what personally on an integrity basis?

18 A. While we never investigated, there were certainly  
19 allegations where we had police show up at the terminal  
20 related to questioning about equipment that Petro had, but  
21 we did not get involved.

22 Q. Was that scaffolding?

23 A. No, it was not.

24 Q. What equipment was it?

25 A. If I remember, it was -- it was a crane. It was

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1 a crane company, and police showed up.

2 Q. To your knowledge, was anybody ever arrested?

3 A. Not to my knowledge. I said we did not  
4 investigate. That's why I said mostly, because I -- I  
5 didn't choose to make a formal decision on it.

6 Q. What did you understand the allegations to be?

7 A. Uhm, that they had bought stolen equipment. It  
8 was stolen from Limetree.

9 Q. And do you know who they were supposed to have  
10 bought that stolen equipment from?

11 A. No, I do not. The owner of the company arrived  
12 with the police and said that's what the investigation was,  
13 and we allowed them access on the site to perform their  
14 investigation.

15 Q. Owner of what company?

16 A. I -- I don't remember the name of the company  
17 now.

18 Q. Well, did the crane -- was the crane removed from  
19 the property?

20 A. Uhm, it was removed from the property.

21 Q. Do you have any knowledge that Petro or Adrian  
22 knew that the equipment that it was purchasing was stolen?

23 A. No, I did not -- no, I do not.

24 Q. Do you dispute that in April of 2018 Petro began  
25 doing business with IPOS?

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1 A. I don't know the exact date of when formation of  
2 Petro was, but the contract was signed later. But they  
3 started during the formation.

4 Q. And they started without a contract; is that  
5 correct?

6 A. That is correct.

7 Q. And what was the verbal agreement when they  
8 started?

9 A. Similar to how it was with Vivot prior to that.  
10 It was just submitting invoices, and we were paying  
11 invoices.

12 Q. Was there an agreement as to rates?

13 A. I don't recall.

14 Q. Okay. And was there ever between IPOS and Petro  
15 any equipment rental agreements?

16 A. I believe it was covered under the general agree  
17 -- the general agreement.

18 Q. So when there was a question about the No. 3 vent  
19 line welding issue, and you decided to terminate the  
20 contract, why did you also terminate the maintenance  
21 contract?

22 MS. FRANCIS: Objection. Asked and answered.

23 BY MS. ROHN:

24 Q. You may answer.

25 A. As I stated earlier, that it was a lack of trust

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1 as a company, because of the fact we had asked for the  
2 information, and we were never provided it.

3 Q. And what information were you never provided?

4 A. It's clearly spelled out in the documents. I  
5 don't profess to be a technical expert. I would have to  
6 see the document, and I can read those specific things that  
7 were being looked for and asked to be put -- sent to us and  
8 never were.

9 Q. Did you ever receive a Dropbox, sir?

10 A. I was the last person to receive it. Yes.

11 Q. And is it your testimony that the documents that  
12 you wanted were not in that Dropbox?

13 A. Yes, that's correct.

14 Q. And did you ever open, review the documents in  
15 the Dropbox?

16 A. Yes, I did.

17 Q. Do you know the data books for projects,  
18 understand that term?

19 A. Yes, ma'am.

20 Q. Okay. And did IPOS have any procedures for when  
21 data books were required and when they weren't?

22 A. No.

23 Q. How would it be determined when data books were  
24 required and when they weren't?

25 MS. FRANCIS: Objection. Foundation.

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1 BY MS. ROHN:

2 A. To the best of my knowledge, it was for the  
3 non-IPOS projects that the data books were asked for.

4 Q. And how did you learn that for non-IPOS projects  
5 data books were required?

6 A. I was copied on e-mails requesting that  
7 information.

8 Q. So the non-IPOS projects that passed through  
9 IPOS, were data books required on those?

10 A. I don't know the answer to that. They were for  
11 Vitol. My responsibility was passing through the invoice,  
12 not the work, data accumulation.

13 Q. But the contractual obligations of Petro were --  
14 were set out in the contract between Petro and IPOS;  
15 correct?

16 A. That's correct.

17 Q. And were there any contractual obligations  
18 between Petro and IPOS to have data books at the end of the  
19 job?

20 A. There are IPOS policies and -- or quality and  
21 data book type of documents required in the quotes provided  
22 by Petro. Even in the 3-inch line in their initial quote,  
23 they say they will adhere to all IPOS safety records, all  
24 IPOS documentation records. And then there were multiple  
25 e-mails that also asked for the data books for that prior

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1 to the work even beginning.

2 Q. As to the data books, you broke up after that.

3 A. Prior to the work beginning as to what the Vitol  
4 representatives were looking for.

5 Q. So my question is though: In the contract  
6 between Petro and IPOS, were there contractual obligations  
7 to provide data books?

8 A. I'd have to look at the documents to give the  
9 exact answer. I don't recall specifically without seeing  
10 it.

11 Q. So on the special projects, was IPOS responsible  
12 for the specifications on those projects or was Vitol?

13 A. It -- it would have been Vitol responsible for  
14 the specifications.

15 MR. BECKSTEDT: This is Carl Beckstedt. I  
16 just wanted to object to that last question.

17 MS. ROHN: Okay. Well, now you have.

18 BY MS. ROHN:

19 Q. So would those specifications be included in the  
20 specs for the jobs? In other words, what types of  
21 documentations would those have included in the scope of  
22 work for the bid for the job?

23 MS. FRANCIS: Objection. Form.

24 BY MS. ROHN:

25 Q. You may answer.

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1 MR. BECKSTEDT: Same objection.

2 BY MS. ROHN:

3 A. So for the request for the quotes, they did refer  
4 to using IPOS documentation, qualifications, and so that  
5 was upfront. And again, in the initial proposal for the  
6 3-inch vent line from Petro, it also said that everything  
7 would be done in -- in accordance with the IPOS documents.

8 Q. So your position is that IPOS in its policies and  
9 procedures had requirements for certain documentations on  
10 jobs?

11 A. So in addition to welding specs, paint specs,  
12 that's -- that's what I'm referring to, that those were  
13 quoted and -- and clearly sent multiple times back and  
14 forth between the parties as to what was expected.

15 Q. But I am speaking of data -- what paperwork data  
16 is required.

17 A. Again --

18 Q. Let me finish my question.

19 A. Yeah. Sorry.

20 Q. Does IPOS have in its policy manual a listing of  
21 particular documents that are required on particular jobs?

22 MS. FRANCIS: Objection. Foundation.

23 BY MS. ROHN:

24 A. I don't personally know. I'd need to have to  
25 review it again.

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1 Q. Well, when you say that the Vitol contract  
2 referred to adhering to IPOS' policies and procedures,  
3 other than welding specifications, what are you referring  
4 to?

5 A. Painting specifications, material specifications,  
6 overall engineering specifications.

7 Q. So would you agree that what paperwork that Petro  
8 was responsible to give on the No. 3 vent line, would be  
9 the paperwork set out in the IPOS policies and procedures?

10 MS. FRANCIS: Objection to the extent that  
11 calls for any legal conclusion. This witness is not  
12 here to provide legal conclusions.

13 MS. ROHN: Not asking for a legal conclusion.

14 BY MS. ROHN:

15 Q. You said that the specifications required that  
16 they follow the IPOS policies and procedures; correct?

17 A. No. What I said was that's what Petro put into  
18 their quote that they were going to follow the IPOS quality  
19 and procedure. I wasn't part of the bidding process.

20 Q. Right. Right. I understand that. But so any  
21 policies and procedures as to what paperwork had to be  
22 turned over at the end of the job, would be IPOS' policies  
23 and procedures, correct, sir?

24 A. No. In this 3-inch vent line, Vitol clearly  
25 stated what they were looking for, and I've seen the

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1 e-mails on that. I was not part of the bidding process on  
2 what they expected to be provided at the end of the job.

3 Q. Well, I thought you said the specifications were  
4 to adhere to IPOS' policies and procedures.

5 A. I think -- I think either I -- you're  
6 misrepresenting what I said or confusing what I'm saying.  
7 But I'm saying there were two different sets related to  
8 this specific project. In the initial quote from Petro  
9 that I have seen, it said that they were going to perform  
10 the work based upon IPOS' qualifications, procedures,  
11 et cetera.

12 In the e-mails that I have seen for Vitol, who was  
13 commissioning the work, they also listed additional items  
14 that they wanted done. And how that was resolved, I wasn't  
15 party to those discussions or to that project to be able to  
16 answer that.

17 Q. So other than some e-mails that may be out there,  
18 though, the actual specifications for the bid refer to IPOS  
19 policies and procedures and qualifications, correct, sir?

20 A. That is correct.

21 Q. Okay. So in paragraph 17, the First Amended  
22 Complaint, Petro says "On September 10, 2019, Petro and  
23 IPOS entered into a contract for Petro to perform  
24 preventive maintenance, remedial maintenance, schedule  
25 projects, and provide equipment rentals and material

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1 procurement."

2 What was the factual basis for denying that  
3 allegation?

4 A. I need to see my -- my response on what I  
5 actually said on that.

6 Q. Your response is "IPOS denies the allegation of  
7 paragraph 17 in the Complaint as written, except admits  
8 that IPOS entered into a maintenance contract with  
9 Plaintiff on or about September 1, 2019."

10 So what is the factual basis that the contract was to,  
11 number one, perform preventive maintenance?

12 A. That -- that is the primary responsibility, yes,  
13 of the contract.

14 Q. What are the facts that it did not include  
15 remedial maintenance?

16 A. I'm not sure that those words are specifically  
17 mentioned in the contract. I need to review that to --

18 Q. Well, did Petro perform remedial maintenance  
19 pursuant to the IPOS contract?

20 A. They did, but it doesn't necessarily say that it  
21 was in that contract. And I believe that was the basis for  
22 the objection.

23 Q. What is the factual basis for scheduled projects?

24 A. Again, I don't believe it specifically said  
25 scheduled projects.



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1 Q. Did they do -- did they do scheduled projects?  
 2 A. Yes, they did.  
 3 Q. "Provide equipment rentals." What is the factual  
 4 basis of their denial of that?  
 5 A. Again, I don't know if it's specifically listed  
 6 in the contract as such.  
 7 Q. Did they do equipment rentals?  
 8 A. Yes, they did.  
 9 Q. And finally, material procurement, what is the  
 10 factual basis for your denial of that?  
 11 A. Again, I don't know if it's specifically listed  
 12 as a responsibility.  
 13 Q. Did they do material procurement?  
 14 A. Yes, they did.  
 15 Q. Paragraph 18 of the Complaint says "The term of  
 16 the contract was to commence on September 1, 2019, and  
 17 could be terminated by either party giving 60 days written  
 18 notice to the other party after the first five years."  
 19 What is the factual basis for your denial of that?  
 20 A. I need to see the contract. I don't believe  
 21 that's what it says.  
 22 Q. Well, that's one of your areas that you're  
 23 supposed to be prepared to answer.  
 24 A. No, I understand, but I don't believe the entire  
 25 statement what you're saying is what's represented there.

84

1 Q. Whether or not requested, did Petro ever  
 2 provide --  
 3 A. I'm sorry. I'm sorry. I stated that  
 4 incorrectly. If I may?  
 5 Q. Sure. Of course.  
 6 A. Yeah, so that's not true. In the -- in the vent  
 7 line -- vent flare repair project in September of 2019, I  
 8 believe, it was specifically stated that welder  
 9 qualifications for that would be needed -- need to be done  
 10 so...  
 11 Q. Okay.  
 12 A. I might be -- yeah. Yeah. I'm sorry. That's  
 13 the answer. No -- yes.  
 14 Q. Was that a Vitol pass-through job?  
 15 A. I don't remember.  
 16 Q. Did Petro provide the welder certifications?  
 17 A. I don't remember.  
 18 Q. Well, would they have been allowed to do the work  
 19 without the certifications?  
 20 A. What I'm not sure of is the timing. I'd need to  
 21 look at that file specifically, because it could have been  
 22 Daniel Martinez, who, again, we know was a certified  
 23 welder.  
 24 Q. So you don't know whether or not any  
 25 certifications were requested or not?

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1 It does say after one year, and you did not read that to  
 2 me.  
 3 Q. So you believe that after one year it could be  
 4 terminated by either party?  
 5 A. Yes.  
 6 Q. And then paragraph 19, which you -- which is  
 7 denied says "Otherwise the contract could only be canceled  
 8 for cause after one year."  
 9 What is the factual basis for IPOS' denial of that?  
 10 A. Yes, we didn't -- we don't believe that that's  
 11 what it says. We believe that after one year it can be  
 12 canceled without cause.  
 13 Q. Okay. During the time that Petro worked with  
 14 IPOS from sometime in 2018 until July 2021, did IPOS ever  
 15 ask for welder certifications of its employees -- its  
 16 welders?  
 17 A. Yes. There was a -- there was a Petro employee,  
 18 Daniel Martinez, who was certified, wore the badges per the  
 19 -- the IPOS policy. In fact, in one of the e-mails related  
 20 to the 3-inch line, his qualifications were sent to Vitol  
 21 as well. So, yes, he was a certified welder for -- for  
 22 Petro.  
 23 Q. Other than Daniel Martinez, did they ever request  
 24 any welding certifications for any other welders of Petro?  
 25 A. Not to my knowledge.

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1 A. No, they were requested. I just -- yes, they  
 2 were requested.  
 3 Q. You just don't recall whether or not they were  
 4 received? Is that what you're saying?  
 5 A. Yes, I'm not sure if they were received.  
 6 Q. And what would be the purpose for -- on the vent  
 7 flare repair project in 2019 to ask for those  
 8 certifications?  
 9 A. Again, it wasn't traditional normal welding  
 10 related to that repair, and so, again, our responsibility  
 11 is to ensure that all welding is certified.  
 12 Q. Did Mr. Canning have the responsibility of  
 13 overseeing the actual welding done on the job?  
 14 A. I think that's a question for Vitol, because the  
 15 3-inch line was not a IPOS project.  
 16 Q. When Mr. Canning worked for IPOS on an IPOS job,  
 17 was Mr. Canning supposed to oversee the actual welding that  
 18 was being done?  
 19 MS. FRANCIS: Objection. Foundation.  
 20 BY MS. ROHN:  
 21 Q. You may answer.  
 22 A. There was very few welding jobs that Petro did  
 23 for IPOS. It was primarily the maintenance work.  
 24 Q. On the ones that there were, was it Mr. Canning's  
 25 job to actually inspect and oversee the actual welding?

86

1 A. No, it was not. It was the responsibility of  
2 Petro to provide the documentation.

3 Q. So did Petro make complaints to IPOS about  
4 Andrew Canning?

5 A. Not to me.

6 Q. So this is you as IPOS?

7 A. Correct.

8 Q. So my question is: Did Petro make complaints  
9 about Mr. Canning to anyone at IPOS?

10 A. The only complaint that I'm aware of was related  
11 to the grating incident on an e-mail that Adrian had sent.

12 Q. And what was the nature of that complaint?

13 A. Andrew's behavior related -- in their opinion,  
14 related to how he addressed -- I don't know the gentleman's  
15 name. -- the safety person, I think Frank and Chad, at  
16 St. Thomas when it occurred.

17 Q. What did he complain about the manner in which he  
18 addressed them?

19 A. That he said that -- that -- that he was told --  
20 that Adrian was told by Frank and Chad that it was BS work,  
21 and that -- and that Andrew was going to sue Petro and  
22 IPOS.

23 Q. Did you ever speak to Mr. Canning about that?

24 A. No, I did not.

25 Q. Why not?

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1 A. I did not.

2 Q. Did anybody else from IPOS --

3 A. Not to my knowledge.

4 Q. -- counsel --

5 Why not?

6 A. Because of the fact it was left in an unsafe  
7 condition. The appropriate reaction wasn't correct, but  
8 the fact is is that it was a dangerous situation.

9 Q. Was it your understanding that the grating was up  
10 a ladder up aboveground?

11 A. Yes.

12 Q. And was it your understanding that that was an  
13 area that was on WAPA's property?

14 A. Almost 50 percent of the St. Thomas facility is  
15 on WAPA's property; so yes.

16 Q. And when you go on WAPA's property, are you  
17 supposed to get a WAPA permit?

18 A. No.

19 Q. Don't tell WAPA I'm going in a certain area on  
20 your property?

21 A. Not for a walkthrough, no.

22 Q. So anybody at IPOS can just walk through WAPA's  
23 property anywhere they want to go?

24 A. Yes.

25 Q. Have you ever requested permits from WAPA to go

87

1 A. The -- the actual investigation was being done  
2 locally by Merlin Figueira and Rawle Granger.

3 Q. Did you ever discuss those complaints with  
4 Merlin?

5 MS. FRANCIS: Objection. Foundation. Vague  
6 as to those complaints.

7 BY MS. ROHN:

8 Q. You may answer.

9 A. Yes.

10 Q. What was the substance of that discussion?

11 A. Again, we didn't give it much credibility.

12 Q. Didn't give what much credibility?

13 A. The fact that -- that Andrew was threatening to  
14 sue Petro and IPOS.

15 Q. Did you give any credibility to the complaint  
16 that he was saying that the work done by Petro was BS?

17 A. Yes.

18 Q. And as a result of -- and what -- and did you  
19 believe that that was true -- that he had said that?

20 A. Yes.

21 Q. And as a result, did anybody at IPOS counsel  
22 Mr. Canning about that behavior?

23 MS. FRANCIS: Objection. Vague.

24 BY MS. ROHN:

25 Q. You may answer.

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1 in particular areas?

2 A. For work, yes.

3 Q. Well --

4 A. But walking, no.

5 Q. Well, wasn't Mr. Canning going to that area to  
6 oversee the work that had been done in that area?

7 A. No. There was no one working at that time.

8 Q. But overseeing the work that had -- how the work  
9 had been done?

10 A. Yes.

11 Q. And that's part of Mr. Canning's work, isn't it?

12 A. To oversee to that, yes.

13 Q. So how is Mr. Canning not working in the area  
14 when he was going to oversee work that had just been  
15 completed in that area?

16 A. You can always go through an area. You can  
17 always walk into a facility. You can always walk into the  
18 tank farm for visual inspection. If you're going to  
19 perform actual work, then you would need to get a permit  
20 that would say do you have the proper PPE; do you have the  
21 proper hearing protection; do you have the proper eye  
22 protection; is it going to be a hot work; is it going to be  
23 sparks; do you need a monitor. Just going to visually  
24 inspect, you do not need a work permit.

25 Q. Even if it's going up a ladder, correct, sir?

90

1 A. That's correct.

2 Q. Okay. And were you aware that the reason that  
3 that area couldn't be barricaded off was because IPOS  
4 personnel had to be able to walk through that area to get  
5 to equipment they had to use?

6 MR. SIMPSON: Objection.

7 BY MS. ROHN:

8 A. That is incorrect. Sorry.

9 Q. What about that is incorrect?

10 A. That it cannot be barricaded for that very reason  
11 is absolutely not correct.

12 Q. So how would the people get through the barricade  
13 to get to the equipment?

14 A. A barricade doesn't need to be a physical  
15 barricade with locking. I mean, it can be something as  
16 simple as caution tape, and then everyone is notified.  
17 That's -- that's considered a barricade in our industry.  
18 So, therefore, to alert somebody of a potential hazard that  
19 they're coming across. This wasn't done in that case.

20 Q. Did you as part -- did IPOS as part of the  
21 investigation, talk to the IPOS employees in that area to  
22 learn whether or not they had indeed been warned that the  
23 grating wasn't safe to step on?

24 A. That was conducted by Merlin and Granger, yes,  
25 and that was not said to the employees.

91

1 Q. And which employees were talked to?

2 A. The -- the operators that were on duty. I don't  
3 recall the names at this point. I'd need to look at the  
4 shift schedule.

5 Q. You're speaking of WAPA employees or IPOS  
6 employees?

7 A. IPOS.

8 Q. Did Andrew Canning make any complaints to IPOS as  
9 to the plaintiff's employees' time records, working  
10 ability, or knowledge?

11 MS. FRANCIS: Objection. Form.

12 BY MS. ROHN:

13 Q. No. 22 of the topics.

14 A. Can you read that to me, please?

15 Q. Sure. "What complaints did Andrew Canning make  
16 to IPOS as to Plaintiff's employees' time records, working  
17 ability, knowledge, when and to whom?"

18 A. Can -- can you tell me what my response was on  
19 that?

20 Q. I'm sorry. You broke up. What?

21 A. Can you tell me what my response was to that --

22 Q. No. No. This is on my 30(b)(6) list of  
23 topics --

24 A. Sorry.

25 Q. -- we're going to discuss.

92

1 A. Okay. Yes, there was a concern that had been  
2 raised regarding time sheets and hours not worked, yet  
3 still charged to IPOS.

4 Q. And how often did he make those complaints?

5 A. I don't have an exact number on that.

6 Q. You were asked when and by whom. So who made  
7 those?

8 A. Andrew related to --

9 Q. To whom?

10 A. To me.

11 Q. Okay. Did you when -- when Canning would make  
12 these complaints, did you ever go to Calvin Schmidt and  
13 say, Calvin, you signed off on this sheet; why did you sign  
14 off on this sheet and Mr. Canning says you shouldn't have?

15 MR. SIMPSON: Objection.

16 BY MS. ROHN:

17 Q. You may answer.

18 A. To the best of my knowledge, that was not on the  
19 general maintenance worksheets. It was all project-related  
20 worksheets. They were separate invoices; so then Calvin  
21 would not have had that -- that responsibility for those.

22 Q. So wasn't one of the complaints in  
23 January 13, 2021, which was a maintenance agreement, in  
24 which he claimed that the people had signed in at 7:30, but  
25 they were really at Cruzan Rum, and that they had billed

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1 for the entire day?

2 MS. FRANCIS: Objection.

3 MR. SIMPSON: Objection.

4 MS. FRANCIS: Form.

5 BY MS. ROHN:

6 Q. You may answer.

7 MS. FRANCIS: Foundation to the extent that  
8 mischaracterizes any document or documents.

9 BY MS. ROHN:

10 Q. You may answer.

11 MR. BECKSTEDT: Same objection.

12 BY MS. ROHN:

13 A. So as far as the time sheets that were turned in  
14 by Petro versus what he saw on the gate logs, yes.

15 Q. And did you ever go to the actual time sheets  
16 turned into Calvin Schmidt to determine how many hours  
17 Petro actually allocated on that day for its workers?

18 A. I don't recall.

19 Q. Were you aware that Calvin Schmidt clearly told  
20 Mr. Canning that the workers don't sign in on the logs,  
21 that ever since COVID no one is allowed in the guard gate,  
22 and it's the guard gate who record the time?

23 MR. SIMPSON: Objection.

24 MS. FRANCIS: Objection. Foundation.

25 BY MS. ROHN:

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1 Q. You may answer.

2 A. I am not aware of Calvin telling Andrew that. I  
3 am aware that in fact security did sign everyone in, IPOS  
4 employees included.

5 Q. But didn't Mr. Canning claim that they had signed  
6 in themselves as coming in at that time?

7 MR. SIMPSON: Objection.

8 MS. ROHN: Noted.

9 MS. FRANCIS: Objection. Foundation.

10 BY MS. ROHN:

11 A. I don't recall. I need to see the document. I  
12 do not recall that he said that they signed themselves in.

13 Q. Didn't he accuse them of forgery; they had signed  
14 in at a wrong time?

15 MR. SIMPSON: Objection.

16 MR. BECKSTEDT: Objection.

17 MS. ROHN: Noted.

18 MS. FRANCIS: Objection. Foundation.

19 BY MS. ROHN:

20 A. He -- he did make accusations that the time logs  
21 turned in by Petro did not match the gate logs at IPOS.

22 Q. And in fact, isn't it true, sir, that the time  
23 sheets turned in by Petro were far less than what were  
24 shown on the gate logs?

25 A. I don't know the answer to that.

95

1 Q. And isn't it a fact, sir, that as to the gate  
2 logs, people are signed in when they come in, and then  
3 they're signed out when they leave for the day, but as they  
4 come and go, they aren't signed in and out?

5 A. Absolutely incorrect.

6 Q. How do you claim the gate logs are done?

7 A. That they're done every time people leave,  
8 whether it's for lunch, whether it's to run an errand. As  
9 soon as the gate log -- somebody leaves the premises,  
10 they're logged in and logged out.

11 Q. So what was the procedure at IPOS as to how the  
12 work times were kept as to Petro workers?

13 MS. FRANCIS: Objection. Foundation.

14 MS. ROHN: No. 23 on the topics.

15 MS. FRANCIS: My objection isn't -- I  
16 appreciate you pointing out which category you were  
17 referring to, Counsel. That was not my objection as  
18 to whether it was on the notice. My objection was  
19 foundation to the extent that that category misstates  
20 or assumes facts.

21 BY MS. ROHN:

22 Q. How were the work times of Petro's employees kept  
23 on the job that was for IPOS?

24 A. I'm sorry. You broke up there. Could you --  
25 could you repeat that question?

96

1 Q. How were the work times of Petro's employees kept  
2 on jobs working for IPOS?

3 A. It was the responsibility of Petro to record  
4 their times and submit it to IPOS for approval.

5 Q. And who at IPOS was supposed to be -- they were  
6 supposed to be submitted to?

7 A. Again, it depends on --

8 Q. Who's Calvin Schmidt?

9 A. He had the three or four guys, usually four, that  
10 were the maintenance folks that were there for the everyday  
11 embedded maintenance.

12 Q. And what involvement did the security guards time  
13 have in documenting IPOS' -- excuse me, Petro's employees'  
14 time sheets?

15 A. I'm sorry. Can you -- part of that broke up. If  
16 you can repeat that, please.

17 Q. Yeah. I said what involvement did the gate logs  
18 have in recording Petro's time as to work done for IPOS?

19 A. We have used the security logs not only for  
20 contractors but also employees, also for safety. It's --  
21 it's part of our facility security plan for the  
22 Coast Guard, we're required to maintain 'em so if there is  
23 a discrepancy or a concern, and also to know who is on-site  
24 in the event of an emergency, that's where those logs come  
25 in handy.

97

1 Q. So are the logs, gate logs used to determine the  
2 times worked by Petro's employees?

3 A. It's -- it's a check if there's a concern -- if  
4 there's a valid concern raised, yes.

5 Q. Did Petro have any punch machines?

6 A. Not to my knowledge, no.

7 Q. Did IPOS have any electronic means of recording  
8 times?

9 A. No.

10 Q. So in 2020 -- in 2020 was there a 1-inch vent  
11 line put out to bid?

12 A. Yes.

13 Q. And was that a IPOS job, pass-through IPOS job or  
14 a Vitol job?

15 A. I believe that was a pass-through.

16 Q. So as a pass-through with IPOS, would the bid for  
17 it have gone to IPOS or to Vitol?

18 A. I'm not sure. I mean, we would have both been  
19 copied on it.

20 Q. Both been copied on what?

21 A. On -- on the bid itself.

22 Q. And the specifications, would they have been  
23 specified by IPOS or specified by Vitol?

24 A. Well, again, referencing with the 3-inch --

25 Q. No, I'm talking about the 1-inch.

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1 A. I understand, but it's similar to how it was  
2 handled in the 3-inch. It would be using IPOS  
3 specifications.

4 Q. So what would have been the Vitrol defendant  
5 involvement in the bid process?

6 MR. BECKSTEDT: Objection.

7 MS. FRANCIS: Also objection. Compound, as  
8 there's more than one Vitrol defendant.

9 BY MS. ROHN:

10 Q. You may answer.

11 A. Yeah, ultimately, once the bids were received and  
12 the decision was made, as it would have been a pass-through  
13 to Vitrol, they would have had ultimate approval on who  
14 would be performing the work.

15 Q. And what would Canning's responsibility have been  
16 as far as overseeing that bid?

17 A. Well, at the time of the 1-inch, he was a --  
18 being paid or -- OPTIS was being paid by Vitrol. So he  
19 would have been the one that accumulated the bids, compared  
20 them and made a recommendation, and responsible overall for  
21 the execution.

22 Q. So you're saying in 2020 Mr. Canning, through  
23 OPTIS, worked for Vitrol?

24 A. That's correct.

25 MR. BECKSTEDT: Objection to the form of that

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1 last question, Lee.

2 BY MS. ROHN:

3 Q. I think you said it would ultimately have been  
4 Vitrol who made the selection on the bid?

5 A. Yes, that's correct.

6 Q. And prior to 2020 had there been a 1-inch vent  
7 line contemplated in 2019?

8 A. Yes, it had been discussed for quite some time.

9 Q. And at that point was -- in 2019 was Mr. Canning  
10 still working for -- through IPOS?

11 MS. FRANCIS: Objection. Form.

12 BY MS. ROHN:

13 A. I believe so, yes.

14 Q. And would that have -- in 2019 would that have  
15 been a pass-through project?

16 A. I'd have to look at the budget from that year. I  
17 don't specifically recall that project. It didn't happen;  
18 so I don't remember how it was budgeted for that year.

19 Q. Do you recall why it didn't happen?

20 A. Similar to a lot of things. It could have been  
21 materials. It could have been time. It could have been  
22 budget. I don't specifically remember that one.

23 Q. As to --

24 A. I mean, the only other thing -- I mean, it could  
25 have been COVID, because it was also COVID was just

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1 starting in as we were collecting bids on that.

2 Q. And was part of Petro's bid for the 2019 1-inch  
3 vent line used in the bid for the 2020 vent line?

4 MS. FRANCIS: Objection. Foundation. Calls  
5 for speculation.

6 BY MS. ROHN:

7 Q. 2020 vent line bid.

8 A. Again, I don't think I can speak to that. To the  
9 best of my knowledge, that bid was not put out by IPOS.

10 Q. Well, did IPOS encourage Mr. Canning to allow  
11 Petro to bid on -- bid on that 1-inch vent line in 2020?

12 A. I don't think we encouraged or discouraged.  
13 Petro was always invited to bid on projects.

14 Q. Were you -- do you dispute that Mr. Canning had  
15 taken the position that Petro hadn't timely bid on it, and  
16 he wasn't going to consider the original 2019 bid?

17 A. I'm not aware of that.

18 Q. Do you remember Canning making accusations that  
19 Petro and Traeger Brothers had acted improperly when they  
20 allowed Petro to use a Traeger Brothers material  
21 information on the 2020 bid?

22 MR. SIMPSON: Objection.

23 BY MS. ROHN:

24 Q. You may answer.

25 A. I remember there was discussions at the time of

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1 accusations.

2 Q. What were --

3 A. But specifically -- but specifically the  
4 accusations, I do not know.

5 Q. Who was making those accusations?

6 A. I do not remember.

7 Q. Remember if it was Mr. Canning claiming that they  
8 were immoral?

9 A. No, I don't know that at all.

10 Q. Do you know what other countries bid -- companies  
11 bid on that 2020 1-inch line?

12 A. No, I don't know. It was a Vitrol project.

13 Q. So what work did Traeger Brothers do between 2018  
14 and 2021 at the propane terminals?

15 A. They actually did no work. They only provided  
16 materials.

17 Q. So would they -- that be on a bid process?

18 A. No, not necessarily. It's more of a procurement  
19 process. They're -- they were primarily procuring  
20 materials for Petro's behalf, for our behalf.

21 Q. And, ultimately, IPOS would pay for those  
22 materials; is that correct?

23 A. That's correct. Unless it was, again, for a  
24 Vitrol project, then it would be passed through.

25 Q. Did Traeger Brothers ever complain to anyone at



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1 IPOS about Andrew Canning or OPTIS?

2 A. No. In fact, I've worked with Traeger Brothers  
3 for more than 20 years, know the owner personally. Not to  
4 my knowledge has there ever been any accusations.

5 Q. So it's your testimony on behalf of IPOS that  
6 Traeger never -- Traeger Brothers never made the  
7 observation that Mr. Canning was slowing jobs down and not  
8 getting them done efficiently and costing additional money  
9 by the way he was managing the jobs?

10 A. That's correct. There was a conversation, again,  
11 between the owner and I specifically about potential issues  
12 with Traeger, and that was never brought up.

13 Q. What issues were you discussing with Traeger?

14 A. Just general between, you know, the -- the  
15 complaints and the concerns of resupply, the bidding, the  
16 general business.

17 Q. Does IPOS dispute that in January of 2021 there  
18 began to be holdbacks of payments to plaintiff on accounts  
19 -- to Petro on accounts receivable?

20 MS. FRANCIS: What paragraph is this?

21 MS. ROHN: 30.

22 BY MS. ROHN:

23 A. IPOS disputes the characterization of what you  
24 said, yes.

25 Q. What about the characterization is being

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1 disputed?

2 A. Yes, that's related to the work. There's e-mails  
3 that have been -- or documents that have been produced  
4 specifically talking about, and the concern that Vitol had  
5 not approved those projects. So -- and it wasn't IPOS  
6 holding money back.

7 Q. But it was IPOS was supposed to pay it; correct?

8 A. In the pass-through, yes.

9 Q. So how could IPOS have an obligation to pay a  
10 contractor and Vitol prevent it from doing so?

11 A. Because Vitol would not have paid IPOS for it,  
12 because they didn't feel that the work was completed.

13 Q. Where in the contract between Petro and IPOS was  
14 there a condition that Vitol would have to approve the work  
15 in order for IPOS to get paid -- for Petro to get paid?

16 A. I'm not aware of any condition.

17 MS. FRANCIS: Objection to the extent that  
18 question misstates the testimony, conflates various  
19 things, lacks foundation.

20 BY MS. ROHN:

21 Q. And what was your understanding as to what  
22 paperwork was missing in January of 2021?

23 MS. FRANCIS: Objection. Misstates the  
24 witness' testimony.

25 BY MS. ROHN:

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1 A. I would need to look at the documents related to  
2 that e-mail. But I specifically remember it being  
3 something to do with either the truck rack or a reverse  
4 flow, which was a Vitol project, and that the budget hadn't  
5 been approved, and I believe that -- I believe the e-mail  
6 states that Petro mobilized on their own.

7 Q. Well, if Petro were to come in and mobilize on  
8 their own and start doing work, how would that be allowed?

9 A. I guess what I'm specifically saying is  
10 mobilizing meaning moving from one island to the other. I  
11 -- because it was not my project, I do not know if they  
12 performed actual work. But I mean the cost associated with  
13 mobilization, per diem, flights, that was what was, I  
14 believe, under dispute on that specific one.

15 Q. So who was the -- who ultimately had to approve  
16 Petro being paid on those projects?

17 MS. FRANCIS: Objection. Form. Foundation.  
18 Vague as to those projects.

19 MR. BECKSTEDT: Objection.

20 BY MS. ROHN:

21 Q. Can you answer my question, please?

22 A. It would be ultimately Vitol.

23 Q. In January of 2021, what work does IPOS claim  
24 plaintiff was engaged in?

25 MS. FRANCIS: Objection. Foundation.

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1 MS. ROHN: No. 31.

2 BY MS. ROHN:

3 A. Can you read that to me, please?

4 Q. No. 31 is "What work Defendant --" that's you,  
5 IPOS, -- "claim Plaintiff was engaged in January 2021?"

6 A. The -- the same work that they had been doing  
7 since the -- they had started working with us. I'm not  
8 sure I understand.

9 Q. Was there a special project that they were  
10 working on in January of 2021?

11 A. I know that the 1-inch vent and the 3-inch vent  
12 projects were going on or starting around then. But I'm  
13 not familiar with any other specific project.

14 Q. And did Petro make any complaints to IPOS as to  
15 Andrew Canning or Vitol preventing them from timely  
16 performing the work?

17 A. Again, I think you need to tell me specifically  
18 which project. I'm not sure I understand.

19 Q. This question is No. 31, which is what work was  
20 -- IPOS claims that Petro was engaged in in January 2021,  
21 and whether or not they complained about that work that  
22 Canning was preventing them from doing the work?

23 A. The -- again, without knowing the exact date or  
24 having the document in front of me, that sounds like it was  
25 more related to the RIO shades and panels and the time

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1 required to get that work done.

2 Q. So let's talk about the RIO shades. I believe  
3 David Nagle was involved in that project; is that correct?

4 A. That's correct.

5 Q. And then Mr. Canning as well; correct?

6 A. That's correct.

7 Q. And were you aware that there was a problem with  
8 the design of those RIO shades, that it didn't work when  
9 you tried to construct according to the design?

10 A. From what I understand is that was the allegation  
11 made by Petro. I don't know that to be factually true.

12 Q. Well, ultimately -- there were two RIO shades,  
13 the St. Thomas job and the St. Croix job; right?

14 A. Yes.

15 Q. And, ultimately, on the -- I don't remember which  
16 came first, St. Thomas or St. Croix. So, ultimately, on  
17 the St. Croix job -- well, first of all, isn't it true that  
18 the St. Croix job took a lot more time than was expected  
19 because of design issues?

20 MS. FRANCIS: Objection. Foundation. Form.  
21 Vague as to what is a lot more time.

22 MS. ROHN: Please don't make speaking  
23 objections.

24 BY MS. ROHN:

25 Q. Isn't that true, sir?

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1 A. No. I understand that it was due to improper  
2 materials and unable to complete the drilling and not  
3 having materials safe to do the drilling.

4 Q. Where did you get that information?

5 A. From various e-mails that have been produced.

6 Q. From whom?

7 A. From David Nagle and Andrew.

8 Q. And this was a set pay job; correct?

9 A. That's correct.

10 Q. So the longer it took, the more Petro lost money;  
11 correct?

12 A. That's correct.

13 Q. And --

14 MS. FRANCIS: I'm going to just object related  
15 to the foundation. This witness is not here as a  
16 Petro witness to know Petro's findings.

17 MS. ROHN: Please stop making speaking  
18 objections.

19 BY MS. ROHN:

20 Q. Now, so it would certainly be in Petro's interest  
21 to get this job done as quickly and efficiently as  
22 possible, correct, sir?

23 A. Again, that sounds correct.

24 Q. And were you aware that it was Petro who  
25 rectified the design problems and got the St. Croix RIO

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1 shades done?

2 A. Again, I don't know that I can say I -- I agree  
3 with that.

4 Q. In what way do you not agree with that?

5 A. Because I have Petro stating that that's how it  
6 was done, but I also have folks representing IPOS that say  
7 it was, again, them not able to follow the directions that  
8 took long, and finally it was the finish.

9 Q. Do you know that the St. Thomas RIO shades were  
10 then done exactly the way Petro had designed the St. Croix  
11 RIO shades?

12 A. Well, I don't believe Petro designed them, but  
13 the way they installed them.

14 Q. Correct?

15 A. That I do -- yes, they did install 'em.

16 Q. So, sir, when all this came up, did you ever have  
17 anyone look at the original design of Mr. Nagle and  
18 Mr. Canning for the RIO shades?

19 MR. SIMPSON: Objection.

20 BY MS. ROHN:

21 Q. You may answer.

22 A. I'm not an engineer. I do -- I wouldn't know  
23 what I'm looking at.

24 Q. Sir, did you have an independent engineer -- you  
25 have two people saying contradictory things; correct?

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1 A. That's correct.

2 Q. So how did you resolve that conflict?

3 A. Ultimately, we -- we didn't. We just moved on.  
4 Similar to what I said earlier, when -- if you get ten  
5 engineers in a room, there's ten different ideas. they can  
6 all work.

7 Once the project's done, we didn't go back to say how  
8 do we -- we knew we'd never put additional ones in.

9 Q. Was it Mr. Canning telling you that Petro didn't  
10 know how to use drill bits, they didn't know how to do the  
11 job, they were unprofessional? That's somebody you're  
12 contracting with. What did you do to resolve those  
13 criticisms?

14 MS. FRANCIS: Objection.

15 MR. SIMPSON: Objection.

16 MS. FRANCIS: Compound.

17 MR. SIMPSON: Objection.

18 MS. FRANCIS: Objection. Foundation.

19 MR. BECKSTEDT: Objection.

20 BY MS. ROHN:

21 Q. What did you do --

22 MS. ROHN: I note your objection.

23 BY MS. ROHN:

24 Q. What did you do to resolve those conflicts?

25 MS. FRANCIS: Same objection.

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1 BY MS. ROHN:

2 A. A conversation was held with Merlin and Andrew  
3 and David. And what I was able to determine, representing  
4 IPOS in that, is that, yeah, there were definitely  
5 disagreements, there were concerns, and then, ultimately,  
6 there were people that were -- because of the work  
7 assigned, some of those people that worked on that job were  
8 not allowed back on-site.

9 Q. Did you ever sit down with Petro to hear Petro's  
10 view of what was going on?

11 A. I did not.

12 Q. Well, what did you do to make sure that

13 Mr. Canning wasn't making false representations to you?

14 A. I don't know that I could characterize as false  
15 representations. He's making observations and comments.  
16 And that Merlin and I had reviewed them, and, again,  
17 instructed Andrew to continue to work on the Vitol  
18 projects, which this RIO panel was one, and then we would  
19 keep working on the IPOS as we had done.

20 Q. Did IPOS have any discrimination training of its  
21 employees?

22 A. Yes.

23 Q. And when did that discrimination training begin?

24 A. From the moment before you actually started work,  
25 you were given an employee handbook that sign that you

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1 acknowledge the document, that it was reviewed with you.  
2 And so every single employee went through that. Again, I  
3 had been told -- I wasn't there when it happened. -- that  
4 Mr. Figueira prior to my arrival had done the same with  
5 contractors that were fully embedded, paid for by IPOS.  
6 Additionally, we had --

7 Q. So other --

8 A. Sorry. Go ahead.

9 Q. Other than giving an employee a handbook that  
10 says you are not supposed to discriminate, what else was  
11 done as training?

12 A. There were continual follow-up, as well as we use  
13 a electronic version that's an annual refresher that all  
14 employees are required to go through.

15 Q. What did you do for continual follow-up?

16 A. Periodically in the monthly safety meetings, we  
17 addressed different topics. We'd have employee meetings as  
18 well.

19 Q. In safety meetings you would bring up  
20 discrimination?

21 A. Absolutely.

22 Q. Is that right, sir?

23 A. Absolutely.

24 Q. So would there be minutes of these safety  
25 meetings?

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1 A. It would only be recorded as a safety meeting and  
2 who attended. But we did annual electronic refresher as  
3 well.

4 Q. And those are for employees. What did you do for  
5 contractors?

6 A. We did no further follow-up.

7 Q. Did you ever give any discrimination training to  
8 Mr. Canning?

9 A. That's what I said. I did not. Mr. Figueira had  
10 said that he had done that prior to my arrival.

11 Q. And as IPOS, what did that consist of?

12 A. Again, it would be the -- the same set of  
13 policies, the employee handbook, reviewing that IPOS does  
14 not tolerate it. In the event that you feel harassed, the  
15 steps that you can take, up to including a phone number  
16 that was posted on the wall that was an international  
17 number to escalate as necessary.

18 Q. So what does IPOS claim is a correct way to  
19 certify welders?

20 MS. FRANCIS: What topic is this,  
21 Attorney Rohn?

22 MS. ROHN: 35.

23 BY MS. ROHN:

24 A. Can -- can you read that to me, please?

25 Q. Sure. "What does defendant contend are the

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1 correct ways to certify employees as welders, and what is  
2 the basis for that claim?"

3 A. We have our policy as to -- to what is required  
4 for someone to be certified. It's ultimately up to the  
5 individual contractor to perform that certification.

6 Q. What's the name of that policy?

7 A. Again, I need to have the document in my hands to  
8 be able to read you specific. I'm not an engineer.  
9 However, it requires the testing methods involved in the  
10 certification, as well as during the work performed, the  
11 amount of welds that would need to be x-rayed on a daily  
12 basis and recertified if the welder didn't pass.

13 Q. Okay. So what would be the testing method, sir?  
14 This is a subject you're supposed to be able to tell me  
15 about.

16 A. Yes. Again, I would need to -- to pull the  
17 policy, and I could read you specifically what it meant.  
18 I'm not an engineer. I can't speak effectively to how the  
19 test is done.

20 Q. And what policy is that you need look at?

21 A. It was -- it was provided to you multiple times,  
22 but it's -- it's the IPOS pipe welding policy.

23 Q. So IPOS relies on that as to how welders are  
24 supposed to be certified?

25 A. That's the basis for performing welding on our



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1 site. It's up to every company to certify their -- their  
 2 own welder and present the qualifications.  
 3 Q. My question is: What does IPOS claim is the  
 4 correct way to certify welders?  
 5 MS. FRANCIS: Objection. Asked and answered.  
 6 BY MS. ROHN:  
 7 Q. Please answer that question.  
 8 A. Yeah. Again, I would have to go to the policy  
 9 and -- again, I'm not a certified welder; so, therefore, I  
 10 would not be doing the certification. I would tell you  
 11 what is in the policy and get an expert that could.  
 12 Q. So that was my question. Then I asked you, well,  
 13 does that policy say how to certify welders. And then I  
 14 believe you told me the policy is how to do the welds and  
 15 how to test the welds, but it doesn't include how to  
 16 certify the welders. Am I incorrect?  
 17 A. What that policy does, it talks about the minimum  
 18 specs that are needed to perform the welding.  
 19 Q. What does that mean?  
 20 A. Again, I'd need to look at the policy, and I  
 21 could answer that better for you.  
 22 Q. Well, does IPOS adopt the ASME --  
 23 A. I'm sorry. I didn't hear you.  
 24 Q. Does IPOS adapt the ASME requirements?  
 25 A. I believe those are listed in there, as well as

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1 BY MS. ROHN:  
 2 Q. No. 36, "What is VTTI, and who are its owners?"  
 3 A. VTTI is the name of the corporation. As far as  
 4 the owners, there is public shareholders, but I don't know  
 5 exactly who is the owners of them.  
 6 Q. What did you do to find out?  
 7 A. I mean, so I can tell you what it's published on  
 8 generally found numbers; however, I don't know the names of  
 9 the various entities. So I can tell you sort of big names  
 10 of who owns what for percentage wise, but I don't know if  
 11 there's a specific entity that might be tied into that, if  
 12 that makes sense.  
 13 Q. Tell me what you know, please.  
 14 A. Okay.  
 15 MS. FRANCIS: Just for the record, I'm gonna  
 16 object. This is a deposition of IPOS, but to the  
 17 extent IPOS has knowledge or this witness has personal  
 18 knowledge.  
 19 BY MS. ROHN:  
 20 Q. You may answer.  
 21 A. Yeah. Vitol is 45 percent owner.  
 22 Q. Which entity is that?  
 23 A. That's what I don't know, ma'am. I don't know  
 24 the name of the entity. I just -- that's what I mean by  
 25 generically Vitol.

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1 European standards as well, yes.  
 2 MS. FRANCIS: Attorney Rohn, we have been  
 3 going for more than an hour. Practically an hour and  
 4 a half, and it is 12:20. Can we take a lunch break  
 5 when you get to a point that we can stop?  
 6 MS. ROHN: Sure. I'm at the end here. I can  
 7 stop now. I can tell you that I'm probably going to  
 8 take most of the day today so...  
 9 MR. BECKSTEDT: Why don't we take a break at  
 10 2 o'clock --  
 11 MS. ROHN: No, sir, I'm going to go through  
 12 this witness and finish this witness. I am not going  
 13 to break at 2 o'clock.  
 14 MR. BECKSTEDT: So we noticed Mr. Rivera about  
 15 a month ago for the date that was agreed to before --  
 16 First of all, we're still recording. Do we want  
 17 to go on a break and talk about this, or do we want to  
 18 do it on the record, 'cause I'm happy to do it on the  
 19 record.  
 20 MS. ROHN: No, we can take a break. We can  
 21 take a break.  
 22 (A luncheon recess was taken at 12:21 p.m.)  
 23 (The afternoon session resumed at 1:12 p.m.)  
 24 MS. FRANCIS: Continued objection to the  
 25 recording as stated previously.

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1 Q. Okay.  
 2 A. ISM is a 45 percent owner.  
 3 Q. That makes it 90.  
 4 A. Yeah. Yeah. Sorry. I thought you were taking  
 5 notes. I was waiting for you to look at me.  
 6 And ADNOC is 10 percent.  
 7 Q. Would you spell that?  
 8 A. Well, it's another acronym. It's A-D-N-O-C,  
 9 Abu Dhabi National Oil Company.  
 10 Q. Does VTTI have any affiliates with IPOS?  
 11 A. Not to my knowledge, no.  
 12 Q. I thought that IPOS was a subsidiary of VTTI?  
 13 A. Well, again, I don't know the name of the entity,  
 14 whether VTTI is an entity itself, and how the corporate  
 15 secretary rolls up. Again, I know that IPOS is part of  
 16 VTTI Technical Services B.V., who owns it. But how it gets  
 17 there, I don't know.  
 18 Q. Has VTTI done any work at WAPA since 2017?  
 19 A. No, it has not.  
 20 Q. And has it done work with OPTIS or Andrew Canning  
 21 in the past six years?  
 22 A. No, it has not.  
 23 Q. Did IPOS ever use VTTI's standards or procedures  
 24 during plaintiff's contract with IPOS?  
 25 A. I'm sorry. Can you repeat that, ma'am?

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1 Q. Sure. Did IPOS ever use VTTI's standards or  
2 procedures during its contract with Petro?

3 A. Yes.

4 Q. And were those -- and what were the policies and  
5 procedures --

6 A. I'm sorry. Let me back up. The policies work  
7 came from VTSS.

8 Q. Okay. Do you know why on the documents that were  
9 produced it says VTTI procedures?

10 A. It's just a letterhead. I don't know the answer  
11 to that.

12 Q. So in No. 38, "What complaints Andrew Canning  
13 started making of Plaintiff's welds in March 2021?"

14 A. I'm sorry. Say that again.

15 Q. What complaints Andrew Canning began to make of  
16 plaintiff's welds in March of 2021?

17 A. There were documents that were produced that  
18 talked about coloring, his observations of the placing of  
19 the welds, and how they were finishing related to the  
20 welds.

21 Q. And what expertise, to your knowledge,  
22 Mr. Canning have as to weldings, coloring, placing, or  
23 finishes?

24 MS. FRANCIS: Was that a category,  
25 Attorney Rohn?

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1 MS. ROHN: Yes.

2 MR. SIMPSON: Objection.

3 BY MS. ROHN:

4 Q. Can you answer my question, please?

5 A. Yes. I'm not aware.

6 Q. Well, when he started making these complaints,  
7 did you do anything to determine whether or not he had the  
8 qualifications to make these complaints?

9 A. No, we did not.

10 Q. Well, would -- do you assume because someone is  
11 an engineer they know about the details of welding?

12 A. No, I do not.

13 Q. So when he made these complaints, did you ask  
14 Mr. Canning what expertise you have to make these  
15 complaints?

16 A. No, I did not.

17 Q. Why not?

18 A. Because, again, it was an observation made and  
19 there was -- we were trying to determine it, and then as  
20 part of the project, the bidding and the scope, all of the  
21 qualifications were supposed to be sent in. And when they  
22 started to be reviewed, that's when some of the questioning  
23 came up.

24 And there was e-mail back forth. He was very clear.

25 There were e-mail back and forth with Petro and with Andrew

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1 as to some of his concerns on the coloring and -- and some  
2 of the other things related to it.

3 Q. Okay. Well, what about the fact that he was  
4 specific about the coloring makes you think he had any  
5 knowledge whether or not that coloring made any difference  
6 or not?

7 A. I guess, I should actually state that this wasn't  
8 our project. This was a Vitol project. So while even if  
9 we he had concerns, we could raise them, but it wasn't us  
10 making the decisions or doing the investigation.

11 Q. Who was doing the investigation?

12 A. Well, again, you'd have to ask Vitol. It was not  
13 a Vitol -- it was not an IPOS project, this 3-inch vent  
14 line.

15 Q. Well, sir, weren't you part of that  
16 investigation?

17 A. I was part of the investigation to determine  
18 whether or not records were falsified, not to determine  
19 whether or not the welders were qualified.

20 Q. And who do you claim was involved in the  
21 investigation as to whether the welders were qualified?

22 A. So, again, Andrew -- I'm sorry. Adrian was  
23 copied on the e-mail. We referred to Andreas Constantinou  
24 for support, and there were other people that were listed  
25 on the e-mails where, again, determination was trying to be

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1 made, and that's where the request for documents and the  
2 request for testing was made.

3 Q. Who is Mr. Constantinou?

4 A. He's the technical director.

5 Q. For whom?

6 A. Well, again, I don't know the specific entity,  
7 but in Rotterdam.

8 Q. Did he ever come and look at any of the welds?

9 A. He did not.

10 Q. Did he ever send anybody to come look at any of  
11 the welds?

12 A. He did not.

13 Q. How would he have an involvement in a Vitol IPOS  
14 contract to be the investigator?

15 MS. FRANCIS: Objection. Misstates the  
16 witness' testimony.

17 BY MS. ROHN:

18 Q. You may answer.

19 MR. BECKSTEDT: Same -- well, objection.

20 BY MS. ROHN:

21 Q. You may answer.

22 A. Again, he wasn't there to determine whether the  
23 welds were accurate or not. Only an inspection company can  
24 do that by x-raying. And so at that point of the  
25 conversation, there was concerns about the qualification

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1 documents that were presented to us, and we asked for his  
2 technical support as we have, as mentioned earlier, service  
3 agreements, whether it's HR or technical or HSE or  
4 computers, to help us for areas that we're not versed in.  
5 So that's what started the discussion.

6 Q. So what service agreement was this --  
7 Mr. Constantinou involved in the welding qualification,  
8 what service agreement was that?

9 A. It's all one encompassing where we pay a service  
10 fee for a corporate overhead support.

11 Q. Who did you pay a service fee to?

12 A. I believe --

13 MS. FRANCIS: Objection. Outside the scope of  
14 the --

15 BY MS. ROHN:

16 Q. You may answer.

17 A. I really -- I don't know off the top of my head.  
18 I'd have to look at the invoice.

19 Q. So you're telling me, as a general manager, you  
20 monthly pay a service fee, and you don't know who it went  
21 to?

22 A. It's an annual fee, and it goes to a VTTI entity,  
23 but I don't want to mistake and give you the name of the  
24 wrong entity.

25 Q. And have you worked with Mr. Constantinou before?

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1 A. Yes, I have.

2 Q. And on what occasions have you worked with him  
3 before?

4 A. Never personally, just in global calls. We have  
5 technical global calls, budgeting, various projects.

6 Q. What do you mean "various projects"?

7 A. Well, for example, at Seaport we worked on a  
8 \$16 million dock line project, and he was involved in that.

9 Q. So what is your understanding of his knowledge of  
10 the qualifications to be certified as a welder?

11 A. Again, I think that's what he was trying to  
12 determine, and Petro wasn't forthcoming with the  
13 documentation to make that determination.

14 Q. And what was -- what was missing to make that  
15 determination?

16 A. Again, it's been documented to you. I will need  
17 to get the specifics. It gets into the technical based  
18 upon the, again, documents that have been provided.

19 Q. Which documents are those?

20 A. As part of the discovery, the e-mails going back  
21 and forth with Adrian on the e-mails related to questioning  
22 about what welding procedures and what we were trying to  
23 determine.

24 Q. Now, you -- are you not aware of the fact that  
25 Petro paid Versa to test the welds to see if the welding

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1 done on the 3-inch line project passed the welding test?

2 MS. FRANCIS: Objection. Form. Foundation.

3 BY MS. ROHN:

4 Q. You may answer.

5 A. I am aware that as part of the bid process and  
6 the document provided by Vitol that there would be a  
7 percentage of welds inspected by a third party inspection  
8 company, yes.

9 Q. Was that percentage 10 percent?

10 A. Yes.

11 Q. And in fact, did an independent company, Versa,  
12 test the welds?

13 A. Yes.

14 Q. And did they come in at less than 10 percent?

15 MS. FRANCIS: Objection. Form.

16 BY MS. ROHN:

17 Q. You may answer.

18 A. No, I think you're -- I think you're incorrect.  
19 They -- I don't know the exact percentage. They -- they  
20 x-rayed 10 percent of the welds. It wasn't a 10 percent  
21 failure rate. It was the number of welds.

22 Q. Correct. You're correct. I'm sorry.

23 They did in fact do 10 percent, and they qualified the  
24 job as having passed; correct?

25 A. That's correct.

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1 Q. Okay. And have you had any engineer that said  
2 that the way they -- the percentage that they -- of welds  
3 they tested and their -- the way they tested those welds  
4 was in any way incorrect?

5 A. Not that I'm aware of.

6 Q. And is it -- do you have any dispute that Versa  
7 is a reputable welding testing company?

8 A. I do not.

9 Q. Now, to your knowledge, did anybody voice the  
10 belief that plaintiff's welding certificates were forged or  
11 illegitimate?

12 A. Yes.

13 Q. Okay. And who made those allegations?

14 A. Andrew Canning.

15 Q. And who did he make them to?

16 A. To me.

17 Q. Anybody else?

18 A. I -- I don't know the answer to that.

19 Q. Weren't there other people on the e-mail that he  
20 sent to you?

21 A. There may have been. I don't want to guess and  
22 misrepresent, but I know it was me. And as the  
23 representative, that's the most important.

24 Q. And what was -- do you know what the basis of  
25 Mr. Canning's statement that the welds were -- the

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1 certifications were forged or illegitimate?

2 MR. SIMPSON: Objection.

3 MS. FRANCIS: Objection. Compound.

4 BY MS. ROHN:

5 Q. You may answer.

6 A. There were several things listed on there; so I  
7 don't know that I can give an all-encompassing. The first  
8 one is he believed that the PDF document font lineup wasn't  
9 correct. The second was that he had verified with Acuren  
10 that the person who had been designated to -- that said  
11 they tested the person hadn't worked there for several  
12 years. And so that's what started the initial. There were  
13 some other ones. I'd have to look at the document to say  
14 that.

15 Q. So Mr. Castro offered to speak to you; correct?

16 A. I never spoke to Mr. Castro.

17 Q. That's not my question. He offered to speak to  
18 you; correct?

19 A. He never sent me an e-mail. He never called me.  
20 That's -- that's what Mr. Melendez has said. But  
21 Mr. Castro did not say that to me.

22 Q. Mr. Castro in a letter said he offered to come to  
23 St. Croix and recertify them, didn't he?

24 MR. SIMPSON: Objection.

25 MS. FRANCIS: Objection. Argumentative.

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1 MS. ROHN: You know, you're just trying to  
2 waste my time. It's not going to work. I'm taking  
3 all this objection stuff off.

4 MS. FRANCIS: I'm not trying to waste your  
5 time. I am allowed to make objections for the record.

6 MS. ROHN: I'm not going to argue with you.

7 BY MS. ROHN:

8 Q. Would you answer my question, please.

9 A. The letter wasn't signed, had no letterhead. We  
10 have no idea who Mr. Castro is. And our contract was not  
11 with him.

12 Q. Weren't there e-mails back and forth about how  
13 you were going to talk to Mr. Castro and who was going to  
14 be present?

15 MR. SIMPSON: Objection.

16 MS. ROHN: Objection noted.

17 BY MS. ROHN:

18 Q. You may answer.

19 A. No, that's how Petro had asked. We had always  
20 said we do not intend on speaking to him till we get the  
21 documentation and can review anyway. Which we've still  
22 not, as of today, not received.

23 Q. Well, weren't there things that said let's talk  
24 to him, but let's not have Chad and Adrian present?

25 MR. SIMPSON: Objection.

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1 BY MS. ROHN:

2 Q. Weren't there, sir?

3 A. I'm not familiar with that. I -- I don't know  
4 it.

5 Q. So Mr. Constantinou, what -- what advice did he  
6 give or input did he give into the investigation?

7 A. He was the one that reviewed what we had, and he  
8 was the one that assisted with compiling a letter to go  
9 back to Petro to ask them for additional documentation to  
10 help us sort through the certification.

11 Q. And is that his sole participation in this  
12 investigation?

13 A. Yes.

14 Q. What investigation did Mr. Stoker have in this --  
15 what participation did Mr. Stoker have in this  
16 investigation?

17 A. To my knowledge, none.

18 Q. Do you know why he was copied on e-mails?

19 A. I do not.

20 Q. What participation did Mr. Canning have in this  
21 investigation?

22 A. He had none.

23 Q. Wasn't he the guy that say I think there's  
24 anomalies in this testing certificate?

25 A. Yes, he did.

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1 Q. And didn't he participate in all the discussions  
2 as to whether or not to meet with Mr. Castro and what to do  
3 next?

4 A. No, he did not.

5 Q. Are you saying he wasn't on the e-mails as to  
6 whether or not to meet with Mr. Castro?

7 A. No. You asked if he was involved in all the  
8 discussions. He was not involved in all the discussions.

9 Q. Was he involved in the e-mails about whether or  
10 not to talk to Mr. Castro?

11 A. I'd need to look at the e-mail. I don't recall,  
12 but he was not part of the investigation. This was -- he  
13 was not an IPOS employee. We did not have a contract in  
14 paying his company. He brought forward an allegation, and  
15 we acted -- we were investigating based upon that.

16 Q. So is it your belief that because the letter  
17 wasn't signed that it was a forgery?

18 MS. FRANCIS: I'm going to object to the  
19 extent that misrepresents the witness' testimony.

20 MS. ROHN: Noted.

21 BY MS. ROHN:

22 Q. Answer my question, please.

23 A. No. There were several things. We never even  
24 got to that point because of the fact that the testing  
25 itself was never produced. However, as mentioned, the

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1 dates were different dates than it was sent.

2 We don't know who Mr. Castro is. It was  
3 misrepresented who he actually worked for to certify this,  
4 and he wasn't in the country. Where he did offer at some  
5 point to go back, according to the e-mail, but he wasn't  
6 even in the -- in this hemisphere.

7 Q. Well, I thought you originally said we didn't get  
8 in contact with Mr. Castro because the letter wasn't dated  
9 and it wasn't signed. Is that not what you told me?

10 A. Well, I guess that wasn't the only thing. There  
11 were several factors to it.

12 Q. Well, did you think someone forged that letter?

13 A. Again, I asked for whether or not these documents  
14 were qualified. It's -- I don't know if you can consider  
15 it a forgery when it's not signed.

16 Q. But did you think someone other than Mr. Castro  
17 wrote that letter?

18 A. As I've said, I have no idea who Mr. Castro is  
19 so -- all I know is that the company that was listed as who  
20 he was doing the inspection for said he did not work for  
21 them. So whether -- whether his qualifications are, the  
22 document that was presented to us signed by Mr. Melendez  
23 misrepresented who he was working on behalf of.

24 Q. Okay. So the form -- Mr. Castro never spoke to  
25 you. The form that he put the information on indicated it

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1 was an Acuren form; correct?

2 A. No, it was signed as the company Acuren. I  
3 believe the form was a generic form, and it may have been  
4 populated by Petro. I don't know where the form came from.  
5 It's not the same -- it's not the same document that Petro  
6 provided us concerning Daniel Martinez, for example.

7 Q. Did you understand that Mr. Martinez was tested  
8 at a different time than the rest of these people?

9 A. No, I completely understand that.

10 Q. So did you then go to Petro and Adrian and say to  
11 him, who is this Mr. Castro? What's his experience?

12 A. I'd have to look at exactly what was said in all  
13 of the e-mails, but we asked for multiple things. We've  
14 produced those files, and we asked for multiple things to  
15 try to determine the validity of the welding.

16 Q. Do you know that Mr. Castro is the person that  
17 certified all the welders at HOVENSA?

18 MS. FRANCIS: Objection. Foundation.

19 MR. SIMPSON: Objection.

20 BY MS. ROHN:

21 Q. Do you know that, sir?

22 A. No, I have no idea. I don't know --

23 MR. BECKSTEDT: Same objection.

24 BY MS. ROHN:

25 Q. Sir, did you ever ask anyone does anybody know

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1 what the qualifications of Mr. Castro are?

2 A. Again, it wasn't my responsibility to do that.  
3 It was my responsibility to get the documents related to  
4 the training -- to the testing.

5 Q. Did you -- were you aware that Mr. Castro had  
6 certified the welders at Diageo?

7 MS. FRANCIS: Again, objection. Foundation.

8 MR. BECKSTEDT: Same objection.

9 BY MS. ROHN:

10 A. No, I don't work for Diageo. I have no idea.

11 Q. And when you keep saying the test results, why do  
12 you think that there's a test result when he was doing  
13 these POD test?

14 A. So if you look at the VTTI, VTSS, IPOS document  
15 for welding, it talks about the testing and the  
16 qualifications required, and so how that's done. And it is  
17 the responsibility of the contractor, and so -- so again,  
18 as to the testing method, I can't speak to that.

19 Again, there were concerns about the documentation,  
20 and that's what we tried to find out more details  
21 surrounding that, and never received them.

22 Q. Well, weren't -- didn't you keep asking for the  
23 tests themselves?

24 A. Yes, that was one of the requests.

25 Q. Did you understand this was retesting, and so

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1 there are tests -- there are no welds saved or tests saved;  
2 it's a recertification?

3 MR. SIMPSON: Objection.

4 MS. FRANCIS: Objection. Foundation.

5 BY MS. ROHN:

6 Q. Sir, answer my question.

7 A. I'm sorry, I can't speak to that. I'm not  
8 qualified in welding testing.

9 Q. Well, then why were you asking for tests if you  
10 weren't certified to know whether or not there were tests?

11 A. Again, as my role as representative, I was the  
12 one sending the e-mails and having the experts asking  
13 questions based upon that.

14 Q. And that expert was supposedly Mr. Constantinou?

15 A. Yes.

16 Q. What was Mr. Constantinou's expertise in welding?

17 A. I don't know the answer to that.

18 Q. Then how did you know he was an expert?

19 A. Again, maybe I'm stating this incorrectly. It  
20 was the question of the documentation or the methods on how  
21 that was done that was never provided by Petro.

22 Q. You said you relied on the expert on that issue.

23 How did you know Mr. Constantinou was an expert on that  
24 issue?

25 A. That's -- that's -- that was the person that I



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1 had gone to in VTTI for other issues. That's his role. If  
2 he was not, he would have put me in touch with someone  
3 else.

4 Q. But you had gone to Mr. Constantinou on other  
5 welding issues before?

6 A. I had never seen this in my career, so no.

7 Q. So why did you want the full inspection and test  
8 plan?

9 A. Again, as I said prior, I was taking what the --  
10 the qualified people in the company had asked, and as  
11 representative of the company, had passed it on to be  
12 tested. I'm not an expert. I can't speak to that.

13 Q. Well, how did you determine that these were  
14 reasonable requests to be made by IPOS if you didn't know  
15 what they were about?

16 A. Again, it was never -- it was never stated by  
17 anyone that they were unreasonable, and so, therefore, we  
18 were just asking for documentation to try to clear the  
19 name. And when we didn't get that forthcoming, that's when  
20 we decided to terminate the contract for lack of trust.

21 Q. So did you get the full inspection and test band  
22 -- plan?

23 A. We did not.

24 Q. Not in that Dropbox?

25 A. There's documents were on and then gone.

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1 Q. I have no idea what that means.

2 A. So there were some documents initially, and they  
3 were immediately removed. So they're still not there to  
4 this day. So I don't know what was put on there.

5 Q. Sir, do you understand that if you don't download  
6 a Dropbox within a certain period of time, the documents  
7 are no longer there?

8 MR. SIMPSON: Objection.

9 BY MS. ROHN:

10 A. I do understand that. It was less than two  
11 weeks, and the documents were removed.

12 Q. How do you know they were removed rather than the  
13 fact that the time span for that Dropbox had -- had ended?

14 MR. BECKSTEDT: Objection.

15 MS. ROHN: Noted.

16 BY MS. ROHN:

17 Q. Sir, answer my question.

18 A. They're still documents there today, but not all  
19 the documents that we requested. So I'm not aware. I'm  
20 not an expert in Dropbox, but that some would automatically  
21 auto delete and not others.

22 Q. Well, did -- when that happened and they -- and  
23 they, quote, disappeared, did you contact Mr. Melendez and  
24 say some of the documents in the Dropbox are not in there  
25 anymore?

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1 A. They disappeared after we had given the  
2 termination notice.

3 Q. So at the time you gave the termination notice,  
4 were -- was there in the Dropbox the full inspection and  
5 test plan?

6 A. Not to my knowledge, no.

7 Q. Do you know what that is, sir?

8 A. I would know if I saw it, yes.

9 But we had asked for multiple documents and not all  
10 the documents were there.

11 Q. Sir, I'm just asking about that, sir. One at a  
12 time.

13 So what do you think one of those looks like?

14 A. So I didn't have -- I mean, I would have to look  
15 at one. If you put one in front of me, I could tell you  
16 what it looks like. But it shows the x-ray -- it shows the  
17 weld plan, the weld sites. Again, I was relying on the  
18 technical expertise of our team.

19 Q. Daily records for welding, filling and field  
20 inspections. Did you get those?

21 A. Again, I would need to look at the -- the  
22 documents that we produced for you to be able to tell you  
23 what was missing. I couldn't specifically tell you.

24 Q. Did you get the mechanical tests of WPQs?

25 A. Those were the initial documents. Yes.

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1 Q. Okay. Did you have conversations with  
2 Mr. Canning about cc'ing to have conversations with Petro  
3 or contractors' employees?

4 A. Merlin instituted that, and I was part of that  
5 conversation, yes.

6 Q. And why did you have that conversation?

7 A. Merlin, who was on scene, felt that there was a  
8 lot of tension, and so because of the fact that Andrew was  
9 not an IPOS representative, we instructed him to only have  
10 the conversations that related to the Vitol projects and  
11 let us -- I say us, meaning IPOS, handle the conversations  
12 related to other issues.

13 Q. Did IPOS and Petro work directly on inspecting  
14 propane vessels in a weld tie into an existing propane pipe  
15 without the involvement of Andrew Canning?

16 A. Yes.

17 Q. And why did you do so without the involvement of  
18 Andrew Canning?

19 A. Again, that's considered general maintenance.  
20 That was not a project.

21 Q. Was Mr. Canning told to not be involved in that?

22 A. Not that I'm aware of, no.

23 Q. So tell me, sir, the reasons for the termination  
24 of Petro's contract?

25 MR. SIMPSON: Objection.

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1 BY MS. ROHN:

2 A. When -- when the accusations were brought to us  
3 about the unqualified welders, we -- we felt that we needed  
4 to protect IPOS' integrity. And when the documents were  
5 never provided as to certifying the welders, we decided  
6 that it was a lack of trust with them and then decided to  
7 cancel the contract at that point.

8 Q. And was the reason that you felt there was a lack  
9 of trust because -- one of the reasons, because Mr. Canning  
10 said that -- brought to your attention he thought the  
11 certification was illegitimate and forged?

12 MR. SIMPSON: Objection.

13 BY MS. ROHN:

14 Q. You may answer.

15 A. It certainly was one of the main ideas that was  
16 brought forward as to the work that Petro was providing for  
17 us.

18 Q. Now, up until those certifications, had you had  
19 certifications of the welders before?

20 A. Yes.

21 Q. Had any problems with them?

22 A. Again, I gonna refer back to Danny Martinez. It  
23 was a different certification, so no. The -- the policy  
24 itself also says that they're supposed to be wearing a --  
25 or have on their person a certification card, and he's the

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1 only one I can recall that ever had that.

2 Q. There had been other welding done -- done on jobs  
3 by Petro's workers before; correct?

4 A. Different welders, correct.

5 Q. Mr. Martinez wasn't the only person that had done  
6 welding prior to this; correct?

7 A. Correct.

8 Q. Have you had any problems with any of those  
9 welds?

10 A. Not to my knowledge, no.

11 Q. They'd all passed the test; right?

12 A. Yes. Well, the 10 percent required pass, yes.

13 Q. Well, but that is the test, isn't it, sir?

14 A. It is. In the event here after the termination  
15 of the contract, because we were unable to -- to validate  
16 the welds, we then did a hundred percent inspection on the  
17 3-inch.

18 Q. Well, was it you were unable to validate the  
19 welds or you were unable --

20 A. The welders. Yeah, the qualification of the  
21 welders; so, therefore, we put a hundred percent  
22 inspection.

23 MS. FRANCIS: Mr. Smith, can I just remind you  
24 that only one person can talk at a time. So if you  
25 would attempt to allow Attorney Rohn to finish her

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1 question in its entirety before you get to your  
2 answer.

3 THE WITNESS: Sorry.

4 BY MS. ROHN:

5 Q. No worries. It happens. It's all the time.

6 MS. FRANCIS: I'm trying to make the court  
7 reporter's job easier.

8 MS. ROHN: Okay, let's just move along, shall  
9 we.

10 BY MS. ROHN:

11 Q. So did you have any reason to think that the  
12 welders that had worked previously for -- on the IPOS  
13 projects were not qualified welders?

14 A. No.

15 Q. And what made -- what made you think because the  
16 welders' certificates had anomalies, that meant that the  
17 welding itself was no good?

18 A. Well, for this project those welders had never  
19 worked with us before. And, therefore, because of the fact  
20 that -- that it was a Vitol project, but Vitol's concern  
21 and our concern is that the integrity of it, if we're using  
22 welders -- again, the policy from VTTI also talks about --  
23 about unqualified welds and welders and x-ray and so -- on  
24 what was done. So that caused us to then verify in order  
25 to get an appropriate engineering sign-off to do a hundred

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1 percent inspection.

2 Q. Did anybody from WAPA ask you to do a hundred  
3 percent inspection?

4 A. I don't know specifically what WAPA asked.

5 However, there's several e-mails and documents relating to  
6 where they wanted the documents, the weld reports. There  
7 was even an e-mail document produced that talk about weld  
8 testing requirements.

9 I believe once we had the issue -- I don't want to  
10 speak for Vitol. -- I believe they would have to speak to  
11 the conversation they had to WAPA about the hundred percent  
12 welding inspection.

13 Q. You -- you, IPOS --

14 A. No, it was not my project.

15 Q. Sir, if you let me finish my question.

16 A. Sorry.

17 Q. You, IPOS, never told WAPA we're gonna do a  
18 hundred percent inspection of the welds?

19 A. Not that I'm aware, no.

20 Q. And in fact, without the additional documents,  
21 WAPA accepted the No. 3 vent line and began using it;  
22 correct?

23 A. Yes, I believe that's correct.

24 Q. And so when IPOS was let -- excuse me, when Petro  
25 was let go, who was hired to do the work Petro had done?

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1 A. TTI/Peak.  
 2 Q. Is that Tampa Tank something?  
 3 A. Yes. I don't know -- I don't know what it stands  
 4 for, but the name of the entity was TTI/Peak.  
 5 Q. Where were they out of?  
 6 A. The U.S. Virgin Islands, I believe.  
 7 Q. And how did you know who they were?  
 8 A. Again, there were multiple contractors on the  
 9 island. It's -- it's -- it's a small island. I mean, we  
 10 -- we knew people -- they were available and called them up  
 11 to see if they would be willing to step in.  
 12 Q. And who did you speak to at TTI/Peak?  
 13 A. I believe Fred Rikiyo (phonetic).  
 14 Q. And did you contact TTI/Peak before or after you  
 15 terminated Petro?  
 16 A. After.  
 17 Q. Weren't you looking for a contractor to be put in  
 18 place before you gave Petro their termination letter?  
 19 A. No, we did not sign a contract with anyone.  
 20 Q. Let's talk about silent contract. Weren't you  
 21 looking for contractors before you ever provided Petro with  
 22 a termination letter?  
 23 A. Not that I recall, no.  
 24 Q. Did somebody have to -- were there bids for this  
 25 new company?

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1 don't know the answer to that. I really don't the answer  
 2 of when the last day the equipment was removed.  
 3 Q. Didn't you send an e-mail that said nobody that  
 4 works for Petro was allowed on the property?  
 5 A. Initially, yes.  
 6 Q. Was there a determination that outstanding  
 7 invoices would not be paid?  
 8 A. So there was a discussion again with counsel, and  
 9 so I --  
 10 MS. FRANCIS: I'm just going to remind the  
 11 witness not to testify about any discussions with any  
 12 counsel that has provided counsel to IPOS.  
 13 BY MS. ROHN:  
 14 A. We paid all of the invoices that were  
 15 attributable to IPOS.  
 16 Q. That were attributable to what? IPOS?  
 17 A. IPOS. Yeah. Yes.  
 18 Q. And initially, though, you did not; correct?  
 19 A. That's correct.  
 20 Q. And what made you decide to pay them?  
 21 A. Well, we had to verify whether it was for the  
 22 maintenance, whether it was for the project, what was --  
 23 what was related to what. We had to go through each  
 24 invoice and determine.  
 25 Q. Did you refuse to pay for the spool, the 8-inch

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1 A. There were not.  
 2 Q. Did you have to bid the job?  
 3 Why not?  
 4 A. Same reason we didn't when we put Vivot in. Same  
 5 reason when we put Petro in. We were always planning on  
 6 going for a formal maintenance contract. However, we  
 7 needed to make sure that we had somebody in there that  
 8 could respond in the event we had maintenance projects.  
 9 Q. And how did IPOS --  
 10 What happened to the equipment rental agreement with  
 11 Petro?  
 12 MS. FRANCIS: Objection. Misstates the  
 13 record. Foundation.  
 14 BY MS. ROHN:  
 15 Q. You can answer.  
 16 A. Yeah, I mean, I would -- I'm not a hundred  
 17 percent sure. I really don't know. I believe Tampa Tank  
 18 just started renting equipment and sending it to us as  
 19 well.  
 20 Q. Well, how long did it take before Petro could get  
 21 their equipment off of IPOS' property?  
 22 A. Some of the hand tools and things like that, they  
 23 had access to right away. There was an e-mail from Adrian  
 24 about 10 days later, and we said that he was welcome to go  
 25 pick it up. As to the exact date that they left, I really

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1 spool?  
 2 A. Yes.  
 3 Q. Why?  
 4 A. It was determined it wasn't built to specs that  
 5 it was supposed to be.  
 6 Q. Wasn't the reason because it had welding on it  
 7 that you didn't know whether or not was done by certified  
 8 welders?  
 9 A. I don't recall at this point, but that may be  
 10 correct.  
 11 Q. Do you recall what information was requested on  
 12 July 27, 2021, of Petro?  
 13 A. I would need to look at that document to -- to  
 14 refresh my memory.  
 15 Q. What was the basis of selecting  
 16 Versa Integrity Group to inspect plaintiff's welds --  
 17 welding after plaintiff was taken off the job?  
 18 A. I believe it was two reasons. One was that was  
 19 who Petro had already hired, and who had done it, and they  
 20 were familiar with the welds. Therefore, you know, it  
 21 wouldn't be disputed as to their capabilities. And, number  
 22 two, I believe they at the time were the only inspection  
 23 company with source material in order to do the radiography  
 24 required.  
 25 Q. And what was the result of their testing?



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1 A. Again, I'd have to look at the exact numbers, but  
2 there -- there were identified that there were failures on  
3 some of the welds that needed a failure, some were recut,  
4 some were reworked. Again, I'd need to look at document to  
5 give you the exact number.

6 Q. According to the -- whether or not the weldings  
7 been correctly done, it's -- in order for welding to be  
8 correctly done, every weld doesn't have to pass the test,  
9 correct, sir?

10 A. That's correct.

11 Q. So do you have any evidence after having Versa  
12 look at it, that that weld -- the welding as a whole did  
13 not pass the welding certification requirements to prove  
14 the welding done?

15 MS. FRANCIS: Objection. Form.

16 BY MS. ROHN:

17 Q. You may answer.

18 A. I'm not a welding expert; so I wasn't able to  
19 make that determination personally.

20 Q. Did Versa tell you?

21 A. Versa gave us the -- the reports. We didn't ask  
22 their conclusions. We took the reports and corrected the  
23 welds that failed or that needed to be reworked.

24 Q. And who corrected those?

25 A. Tampa Tank. TTI/Peak. Sorry.

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1 Q. Did you somehow form the conclusion, IPOS, that  
2 somehow those needed to be corrected?

3 A. So we felt that, based upon how we weren't able  
4 to verify the qualification of the welders, that, yes, in  
5 order to do this job correctly, all of the -- the welds  
6 that were found to need repairs were to be corrected.

7 Q. But hadn't WAPA already begun using the 3-inch  
8 vent line by that time?

9 A. I think you can attribute that similar to  
10 construction. You have a punch list, means there are still  
11 things that you're trying to correct and make -- make it  
12 based upon the standards that you set. Doesn't mean it  
13 can't be used.

14 Q. Well, WAPA didn't put that on the punch line, did  
15 they?

16 MS. FRANCIS: Punch line?

17 MS. ROHN: Punch line. That's what he said, a  
18 punch list.

19 BY MS. ROHN:

20 Q. Did they put that on a --

21 A. Punch list. Punch list is what I said, yeah.

22 Again --

23 Q. Did WAPA put --

24 A. I think in --

25 Q. Go ahead.

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1 A. -- that case -- no, it's a question for Vitol  
2 again. The project was with Vitol and WAPA. We were help  
3 facilitating.

4 Q. After plaintiff's contract was terminated, was  
5 any additional documentation asked of from plaintiff?

6 A. Yes.

7 Q. What additional documentation was that?

8 A. Again, it was a Word document that was sent to  
9 Petro, and it -- actually, I -- I would need to look at the  
10 document to get the exact date. It may have been sent  
11 beforehand, but it was trying to validate all the various  
12 projects that were done for books, qualification books.

13 Q. And those were verification books that had never  
14 been asked at the time that the work had been completed;  
15 correct?

16 A. That's correct.

17 Well, let me -- let me qualify. For the IPOS ones,  
18 yes. For the Vitol projects that were listed on there, I  
19 can't speak to that.

20 Q. Now, did not -- did Petro offer to repair any of  
21 the welds for free?

22 A. I don't know about for free, but they did offer  
23 to repair their welds.

24 Q. And who was -- who was involved in the decision  
25 not to allow them to do so?

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1 A. Ultimately, that would be me.

2 Q. And why did you decide not to let them do so?

3 A. Again, due to the lack of trust, we did not want  
4 to pursue that matter.

5 Q. And the lack of the trust is again this question  
6 about certifications?

7 A. Correct. The qualifications, yes.

8 Q. And was the repair work to the welds put out for  
9 bid?

10 A. It was not.

11 Q. Why not?

12 A. Again, similar to when we had Vivot and initially  
13 had Petro without a contract, it was easier to have the  
14 company that was there. They did give a bid, but it was  
15 not put out to bid. So we did get a bid for that work.

16 Q. Why wasn't it put out for bid?

17 A. Again, we were trying to do it as expeditiously  
18 as possible and to get everything certified.

19 Q. Did you have any communications with WAPA that  
20 you were going to pay to have every weld repaired?

21 A. I'm sorry. I'm waiting for the camera to move.  
22 It was kind of spun.

23 Can you say that again, please? I'm sorry.

24 Q. Did you have any conversations with WAPA that you  
25 intended to have every weld repaired?

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1 A. I did not, but again, it was a Vitol project. So  
 2 I would not have had that conversation.  
 3 Q. But you were getting the people to do that work,  
 4 weren't you, sir?  
 5 A. That's correct. But I never had a contract with  
 6 WAPA; so that conversation should have been between Vitol  
 7 and WAPA as to what was being done.  
 8 Q. And, ultimately, WAPA paid for that work; isn't  
 9 that true?  
 10 A. I don't know the answer to that. Again, I know  
 11 that IPOS was paid by Vitol to facilitate.  
 12 Q. Well, who reimburses Vitol?  
 13 A. Again, I -- I don't know if every project is or  
 14 not. I can't speak for Vitol.  
 15 Q. Normally who -- who reimburses Vitol?  
 16 MS. FRANCIS: Asked and answered.  
 17 BY MS. ROHN:  
 18 Q. We're talking about every project. Normally.  
 19 A. But again, I can -- the only thing that I can  
 20 testify to is that the maintenance contract, not projects,  
 21 were directly reimbursed by Vitol with approval of WAPA. I  
 22 don't know how any of those projects. You can list them  
 23 all. I don't know.  
 24 Q. Do you know what a POD phase array ultra sonic is  
 25 -- test is?

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1 A. Again, it was not for our project. That was part  
 2 of the scope bid that Petro had put in for the 3-inch that  
 3 they would provide those. It was part of the Vitol e-mail.  
 4 It was passed on. So it would -- that's a question for  
 5 Vitol.  
 6 Q. And I'm asking you, weren't the certifications  
 7 the same?  
 8 A. They were the same. I'm saying that we -- it  
 9 wasn't our responsibility at that time to review them. It  
 10 was for a Vitol project.  
 11 Q. I understand that, sir. But I'm just simply  
 12 asking weren't they the same certifications?  
 13 A. Yes.  
 14 Q. So did you think those certifications were --  
 15 were fraudulently done as well?  
 16 A. Again, we merely passed them on to Vitol. It  
 17 wasn't our purpose, because that was not our project.  
 18 Q. Why wouldn't IPOS agree to allow the Petro  
 19 welders to be recertified if there was a question about  
 20 their certification?  
 21 A. Again, it was loss of -- lack of trust, loss of  
 22 trust at that point, and we had decided to terminate the  
 23 contract.  
 24 MS. ROHN: I'm going to start sharing  
 25 documents; so you want to take a ten-minute break, so

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1 A. I've seen it in the documentation. I'm not  
 2 personally familiar with it.  
 3 Q. Sir, do you dispute that in April of 2021 Petro  
 4 provided IPOS with the certifications for its welders?  
 5 A. Yes.  
 6 Q. You do?  
 7 A. Well, I don't know the exact date, but I do know  
 8 that the certifications were provided, yes.  
 9 Q. And that that was the second time certifications.  
 10 The first ones were in February, second ones were in --  
 11 were in April; correct?  
 12 MS. FRANCIS: Objection.  
 13 BY MS. ROHN:  
 14 A. Again, I don't know the specific dates.  
 15 Q. But previously you had received certifications of  
 16 the welders?  
 17 A. That is correct.  
 18 Q. Correct?  
 19 And were those the same welders that were then -- you  
 20 asked for certifications for in July of 2021?  
 21 A. No, we didn't ask for certifications. We asked  
 22 for documentation related to the certification, yes.  
 23 Q. What was different about the certifications from  
 24 approximately February and approximately April of 2021 and  
 25 the ones in July?

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1 I can get everybody ready to start sharing?  
 2 MS. FRANCIS: We can take as much time as you  
 3 want to, Attorney Rohn.  
 4 MS. ROHN: Well, how about I just have to get  
 5 Michael on and Michael ready.  
 6 Mr. Smith, would you like a five-minute break or  
 7 ten-minute break?  
 8 THE WITNESS: It doesn't matter. It doesn't  
 9 matter. Whatever makes it easier for everyone on the  
 10 call.  
 11 MS. ROHN: Let's do 10 minutes.  
 12 (A recess was taken at this time.)  
 13 MS. ROHN: I'd like the witness to be shown  
 14 Exhibit 301.  
 15 (USVI LPG Conversion Project Volume 4f Piping  
 16 Specifications and Welding was previously marked as  
 17 Exhibit 301 for identification.)  
 18 MS. FRANCIS: Can you identify the Bates  
 19 numbers?  
 20 MS. ROHN: IPOS 3902 to 3932.  
 21 It's not showing, Karima.  
 22 MS. FRANCIS: For the record, I realized  
 23 exhibits were sent this morning. We did not have an  
 24 opportunity to download those and print them. The  
 25 witness, therefore, does not have any documents in

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1 front of him and will need an opportunity to review  
 2 the documents.  
 3 MS. ROHN: So these are all documents I  
 4 previously gave them. I just put them in a different  
 5 order, as the order that they're going to be used.  
 6 But you had 301 for weeks.  
 7 MS. FRANCIS: The witness does not have  
 8 physical documents in front of him. So he will review  
 9 documents on the screen, provided he's given an  
 10 opportunity to review the document.  
 11 BY MS. ROHN:  
 12 Q. This is the USVI PG -- P -- LPG Conversion  
 13 Project Volume 4f Piping Specifications and Welding.  
 14 Are you familiar with this document, sir?  
 15 A. Yes, ma'am.  
 16 Q. And is this the welding -- is this the welding  
 17 specifications that you've been referencing in your  
 18 deposition?  
 19 A. Yes, it is.  
 20 MS. ROHN: And if you go to page 3904, under  
 21 "Applicable Codes & Standards."  
 22 BY MS. ROHN:  
 23 Q. Do you dispute that those are the codes and  
 24 standards for the welding?  
 25 A. I do not.

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1 MR. SIMPSON: Because the Exhibit 301 your  
 2 office provided to us is 33 pages, not 584 pages.  
 3 MS. ROHN: This is 33 as well. In any event,  
 4 your objection is noted for the record.  
 5 BY MS. ROHN:  
 6 Q. See it says section 2.12.2, "Welding Procedure  
 7 Qualification"?  
 8 A. Yes.  
 9 Q. It's 3912.  
 10 A. Yeah, it was -- it was not scrolled up. Yes.  
 11 Q. And do you dispute that that is the welding  
 12 procedure qualification?  
 13 A. I do not.  
 14 MS. ROHN: And if you go to 2.12 -- the next  
 15 page, 2.12.3 under "Welder Qualifications."  
 16 "Welder shall be qualified in accordance with the  
 17 ASME Section IX, 2008. The Owner/ Company's/  
 18 Engineers inspector shall witness the test and certify  
 19 the qualification of each welder separately."  
 20 You see that?  
 21 A. Yes, ma'am.  
 22 Q. And it also says that "no welder" -- if you look  
 23 under No. w, "no welder shall be permitted to work without  
 24 the possession of identify card."  
 25 But you just testified that you saw welders but didn't

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1 Q. And this would have been -- and if you look at  
 2 the second page of this document -- the top first page of  
 3 this document where it has the little wavy lines.  
 4 MS. ROHN: Go to the first page, please.  
 5 BY MS. ROHN:  
 6 Q. That line right there. Those little wavy lines  
 7 and then VTTI. What does that stand for?  
 8 A. I don't know that it stands for anything. I'm  
 9 not --  
 10 Q. Well, aren't there companies that are referred to  
 11 as VTTI?  
 12 A. Yes. I thought you meant like an acronym like  
 13 IPOS. I don't know what VTTI stands for.  
 14 Q. In fact, your e-mail is a VTTI e-mail, correct,  
 15 sir?  
 16 A. Yes, that's correct.  
 17 Q. And so the welding certifications would be the  
 18 welding certifications that are referenced in this  
 19 specifications and procedures; is that correct?  
 20 A. That's correct.  
 21 MS. ROHN: And if you go to page 3912.  
 22 If you scroll down, please.  
 23 MR. SIMPSON: Excuse me. Are we still on  
 24 Exhibit 301?  
 25 MS. ROHN: Yes, we are.

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1 see their cards. How's -- how could that be, sir?  
 2 MS. FRANCIS: Objection. To the extent that  
 3 misstates the testimony.  
 4 BY MS. ROHN:  
 5 Q. Didn't you say, sir, that the only welder you saw  
 6 with a card was Mr. Miguel, whatever his name was?  
 7 Martinez.  
 8 A. Yes.  
 9 Q. Well, how did that happen, sir?  
 10 A. I don't know. It says it "shall be the  
 11 responsibility of contractor to issue the identity cards  
 12 after duly certified."  
 13 Q. But it also says "No welder shall be permitted to  
 14 work without the possession of identity card"; right?  
 15 A. Yes.  
 16 Q. But you allowed people to work without the  
 17 identity card; is that correct?  
 18 MR. SIMPSON: Objection.  
 19 MS. FRANCIS: Objection. Misstates the  
 20 document.  
 21 BY MS. ROHN:  
 22 Q. You may answer.  
 23 A. Again, it was not our project; so that's a  
 24 question for Vitol.  
 25 MS. ROHN: Exhibit 180, which are Canning 468

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1 through 470 and page 485.  
 2 (E-mails Bates Nos. Canning 468 to 470 were  
 3 previously marked as Exhibit 180 for identification.)  
 4 (E-mails Bates Nos. CANNING 484 to 485 were  
 5 previously marked as Exhibit 181 for identification.)  
 6 MS. FRANCIS: What exhibit is that,  
 7 Attorney Rohn?  
 8 MS. ROHN: 180.  
 9 MS. FRANCIS: And that exhibit has a gap in  
 10 Bates numbers?  
 11 MS. ROHN: It does.  
 12 Did you find 180?  
 13 BY MS. ROHN:  
 14 Q. Okay, 180 is an e-mail from Chris Neophytou to  
 15 Tim K. and Petro Constantinou. "Information submittal to  
 16 Vitol."  
 17 MS. ROHN: Can you scroll up, please? I mean  
 18 find 468. Canning 468. You're on the wrong document.  
 19 No. You're in the wrong -- you're in the wrong --go  
 20 to the first page of 180, please. Okay, go -- 180.  
 21 That's after 179.  
 22 Okay, there we go. Okay. And if you scroll to  
 23 the middle there.  
 24 BY MS. ROHN:  
 25 Q. You see Mr. Petro Constantinou on this e-mail?

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1 Do you know if this is the Vitol documents to the  
 2 construction of the propane terminals?  
 3 MS. FRANCIS: I'm going to object to the  
 4 extent that this is outside the scope of the 30(b)(6)  
 5 notice.  
 6 MS. ROHN: Noted.  
 7 BY MS. ROHN:  
 8 A. I have no idea what this document is. I've never  
 9 seen it before.  
 10 Q. Okay. Do you know what a 1/2-inch venting line  
 11 is?  
 12 A. I'm sorry --  
 13 Q. Do you know what a 1/2-inch venting line is?  
 14 A. I do, but not this specific one.  
 15 Q. Okay.  
 16 MS. ROHN: Exhibit 182.  
 17 (E-mails Bates Nos. Canning 748 to 757 were  
 18 previously marked as Exhibit 182 for identification.)  
 19 MS. FRANCIS: Bates numbers, please.  
 20 MS. ROHN: Canning 748 to 757.  
 21 182. Keep going.  
 22 BY MS. ROHN:  
 23 Q. All right. This is an e-mail December 6, 2017,  
 24 from Andrew Canning to yourself, it says "RE: APR support  
 25 timesheets.

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1 Do you know who --  
 2 A. Yes.  
 3 Q. Do you know who Chris Neophytou is?  
 4 A. I'm not -- I think it's pronounced differently.  
 5 But he is with Hiteco Engineering.  
 6 Q. And what was Merlin Figueira's position in March  
 7 of 2017?  
 8 A. He was general manager then.  
 9 Q. Of?  
 10 A. Of IPOS.  
 11 Q. It says "Petro is reviewing the Welding  
 12 procedures and will reply tomorrow."  
 13 Do you know what -- do you have any reason to believe  
 14 that those welding procedures were any different than the  
 15 welding procedures on the 3-inch line?  
 16 A. Again, this was before I started with the  
 17 company; so I don't have a frame of reference. I didn't  
 18 review this document.  
 19 MS. ROHN: Then if you go to 485 of that  
 20 exhibit. Page 485, it's about three down.  
 21 BY MS. ROHN:  
 22 Q. All right. This is an e-mail from  
 23 Eiser Benjamin. "Final Drawings USVI Binder and LPG filing  
 24 procedures and requested datasheet."  
 25 It says "VITOL & WAPA Team."

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1 "David, Further to our discussion regarding the costs  
 2 associated with Adrian and Felix supporting the APR  
 3 project."  
 4 Do you know what the APR project is?  
 5 A. Yes, I do.  
 6 Q. And what is that?  
 7 A. It was a project that WAPA had undertaken. APR  
 8 is a company, and they were gonna to take one of the  
 9 existing turbines. I don't remember the exact specifics  
 10 because the project never finished, but they were going to  
 11 get liquid propane and run it through their own, similar to  
 12 what the IPOS was, and it was gonna be done on St. Thomas.  
 13 MS. ROHN: And if you go to the Canning 752.  
 14 That's it right there.  
 15 BY MS. ROHN:  
 16 Q. So you see these time sheets, "USVI --  
 17 A. Yes.  
 18 Q. -- VTTI WAPA"?  
 19 And you --  
 20 MS. ROHN: If you'll scroll through down.  
 21 BY MS ROHN:  
 22 Q. This time sheet appears to have been signed off  
 23 on by Adrian Melendez; correct?  
 24 A. Adrian Sr. Sr. signed it, yes.  
 25 MS. ROHN: If you'll go to --

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1 MS. FRANCIS: This document refers to Burdock,  
2 which is a nonparty to this lawsuit, and it predates  
3 the existence --

4 MS. ROHN: You don't have to bother. I am  
5 through with that. I thought that was  
6 Adrian Melendez, Jr.

7 Exhibit 224, PIS 708 -- 78 -- 7087 to 88.

8 (E-mails Bates Nos. PIS 7087 to 7088 were  
9 previously marked as Exhibit 224 for identification.)

10 MS. ROHN: If you go to -- you've gone too  
11 far.

12 If you go to the second page of 224, which is  
13 7087.

14 That's 225. Please go up one. This page right  
15 here. Thank you.

16 BY MS. ROHN:

17 Q. This is an e-mail from your -- from yourself,  
18 David Smith, to Adrian Melendez, cc Andrew Canning.  
19 Wednesday, April 25, 2018. "Attached Services Agreement.  
20 "Good morning Adrian, Here are our contracts for your  
21 review."

22 Would that have been the review of the contract that  
23 was entered into in 2019?

24 A. No. For the original.

25 Q. Okay. That was --

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1 A. 2018.

2 Q. In 2018.

3 Why would you be sending a copy of that contract to  
4 Adrian Canning -- I mean, Andrew Canning?

5 A. At that point all of the work, we did not have a  
6 maintenance supervisor. That was prior to hiring  
7 Calvin Schmidt. As I had mentioned earlier, at that point  
8 it was shortly after the hurricane. We were still on prep,  
9 and so all of that project work and punch list work was  
10 originally falling under Andrew to execute.

11 Q. Why would Andrew need to know what your contract  
12 was with Petro?

13 A. I mean, the -- the maintenance contractors,  
14 Coury Hodge and Calvin Schmidt, were aware of it, the  
15 operations supervisors were aware of it. I mean, people in  
16 -- that were going to be dealing with them. I don't -- I  
17 don't see anything wrong with that.

18 Q. Why would they know how much they were getting  
19 paid?

20 A. Again, that's only the billing rates. It's not  
21 how much they were --

22 Q. Why would they need -- why would they get to know  
23 the billing rate?

24 A. I don't understand why they wouldn't. I mean,  
25 there's nothing in it that said this needs to be kept

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1 confidential.

2 Q. So Petro could have given a copy of the contract  
3 to anybody they wanted to?

4 A. Ultimately. And at this point it was still -- it  
5 was still a review.

6 Q. Well, Adrian responds to --

7 A. They hadn't even -- yeah. I'm sorry.

8 Q. "I'll be sending you all the new docs for the  
9 LLC."

10 There's no other comments on that, is there?

11 A. Right, but it didn't say to sign. We waited  
12 until we received his documents before signing the  
13 contract. And they were put in -- and they were put into  
14 the contract.

15 MS. ROHN: Exhibit 225.

16 (E-mails Bates Nos. PIS 7091 to 7093 were  
17 previously marked as Exhibit 225 for identification.)

18 MS. FRANCIS: Bates numbers, please?

19 MS. ROHN: PIS 791 to 793.

20 If you go to 793.

21 BY MS. ROHN:

22 Q. It says July 12, 2000 --

23 MS. ROHN: Are you there?

24 BY MS. ROHN:

25 Q. There's an e-mail from Petro saying "Hope all is

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1 well. Could you please advise on status of the payment of  
2 the attached?"

3 And you --

4 MS. ROHN: Right there.

5 BY MS. ROHN:

6 Q. And then you say "Good morning, Adrian, Do you  
7 have anytime to talk?"

8 Do you know what that's about?

9 A. Yes.

10 Q. What's that about?

11 A. There was a period of time where there was a  
12 dispute as far as repayment between IPOS and Vitol, and so,  
13 therefore, we were waiting on payments for them to make  
14 other payments.

15 Q. Okay. And then --

16 MS. ROHN: Exhibit 46AC, IPOS 9273.

17 (E-mail Bates No. IPOS 9273 was previously marked  
18 as Exhibit 46AC for identification.)

19 BY MS. ROHN:

20 Q. This is an e-mail, October 9, 2018, from yourself  
21 to Alexander Etienne, Rawle Granger, Andrew Canning, and  
22 Coury Hodge. "Maintenance/Project discussion."

23 MS. FRANCIS: Is this one page, Attorney Rohn?

24 MS. ROHN: Sorry. What?

25 MS. FRANCIS: You said IPOS 9273. Is that



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1 entirety of the exhibit?

2 MS. ROHN: Yes. Yes, it is.

3 BY MS. ROHN:

4 Q. It says -- it says "Yesterday morning Alex,  
5 Andrew and I had a conversation that I wanted to pass on."

6 Is that Andrew referring to Andrew Canning?

7 A. Yes.

8 Q. And then you say "First of all, to reiterate, in  
9 every action we take, safety of our people, the community  
10 and the assets we manage are the first priority. Every  
11 employee and contractor has the right to stop any job, for  
12 any reason."

13 Is that true, sir?

14 A. Yes, it is.

15 Q. And then it says "We should talk about it as a  
16 leadership group. We should follow MOC and all work should  
17 be permitted."

18 What is an MOC?

19 A. Management of change.

20 Q. And what was your position in October of 2018?

21 A. General manager.

22 Q. And in fact, was every job permitted?

23 A. For a permit, yes. You need -- yes, you need a  
24 work permit to do work inside the facility.

25 Q. Did you need work permits to do maintenance in

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1 the propane terminal?

2 A. Yes.

3 Q. It says "It is -- it is the only way to ensure  
4 that we know what is going on." Then it says "VTTI is  
5 working on an online permit to work, but until then, we  
6 need to make sure everyone understands?"

7 Was it VTTI that did your permits procedure?

8 A. Uhm --

9 MS. FRANCIS: I didn't hear that. What was  
10 the question?

11 BY MS. ROHN:

12 Q. Was it VTTI that did your -- did IPOS' permit  
13 procedure?

14 A. No, we had our own IPOS permit procedure that we  
15 printed ourselves.

16 Q. Do you know what you meant when you said "VTTI is  
17 working on an online permit to work"?

18 A. Yes. Actually, it never happened, but the -- so  
19 we use hard copies. So every day when you go inside the  
20 facility as a contractor or you want to perform work, you  
21 report to the control room. You know, you discuss what the  
22 work is. Similar to what I was saying earlier today, you  
23 know, it'll be a discussion to say do you need safety  
24 glasses; do you need a safety helmet; do you need a  
25 monitor; do you need -- what type of tools, sparking,

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1 non-sparking tools --

2 Q. Thank you. I don't need -- thank you.

3 A. Okay. But -- okay.

4 MS. FRANCIS: You asked a question, Attorney  
5 Rohn.

6 MS. ROHN: Well, I didn't ask every detail of  
7 what it was supposed to be on the permit.

8 BY MS. ROHN:

9 A. But the point maybe is that it was going to try  
10 to be moved to electronic, and that never happened. So  
11 until then we were still using the paper permits, which  
12 were still being used in IPOS for our entire time there.

13 Q. Then if you go to the next paragraph you say,  
14 "Andrew is a resource for all of us to use. He is  
15 responsible for the punch list items and the  
16 APR/Wartsila/Aggreko interface, but, ultimately, it is  
17 operations decision with his advice and counsel."

18 Is that true for how the work was done at IPOS?

19 A. Well, during that period, yes. That was still  
20 coming out of the hurricane, yes.

21 Q. And it says that "If we don't organize work, he  
22 will step in to make sure we are getting value from the  
23 folks we have onsite."

24 That was one of his jobs; is that right?

25 A. Well, the reality is, I mean, that's everyone's

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1 responsibility, if people aren't working.

2 Q. Well, you singled out Mr. Canning, did you not?

3 A. Well, I don't specifically remember this e-mail,  
4 but someone must have brought an issue up related to him  
5 asking the guys that work.

6 Q. And then it goes on to say down from that, "We  
7 have shifted our focus in the past year, we no longer have  
8 separate bank accounts for project and ops, we only have  
9 ops, and Vitol reimburses us for the project/punch list  
10 work."

11 Was that true at the time you said it?

12 A. Yes.

13 Q. And then it says, "As we are trying to reduce the  
14 cost of Petro, we have scaled back the folks onsite."

15 Why were you trying to scale back the cost of Petro?

16 A. At the end of this fiscal budget year, we were  
17 well over budget, and Vitol had us actually send them home  
18 and leave the facility without working at the -- at that  
19 contract year until the new fiscal year started on  
20 July 1st. They actually were sent home, and we were only  
21 calling in on emergency because of the fact we were so far  
22 over budget, we were told no more spend.

23 Q. Okay. Exhibit -- and who told you no more spend?

24 A. So that came from Eduardo Garcia of Vitol.

25 MS. ROHN: If you can go to 230.



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1 (E-mails Bates No. PIS 7118 were previously  
2 marked as Exhibit 230 for identification.)  
3 BY MS. ROHN:  
4 Q. This is an e-mail --  
5 MS. ROHN: 230. That's it.  
6 BY MS. ROHN:  
7 Q. -- from you to Adrian Melendez, March 2, 2019.  
8 MS. FRANCIS: What is the Bates number? We  
9 cannot see it on the screen.  
10 MS. ROHN: PIOS 7118.  
11 BY MS. ROHN:  
12 Q. Says good -- this is a statement. In March you  
13 say to Melendez, cc Andrew Canning.  
14 "Good morning gents, I know there is a lot going on  
15 but can you revisit at some point and update the schedule  
16 and cost?"  
17 And that's followed --  
18 MS. ROHN: Scroll down.  
19 BY MS. ROHN:  
20 Q. By an e-mail on October 29, 2000 -- that's  
21 preceded, sorry, by an e-mail October 29, 2018, from Andrew  
22 -- from Adrian to Andrew Canning.  
23 "Please find the attached Budget & Schedule and Work  
24 Scope for the Outage of Vessel 208 for your review."  
25 Would that have been a maintenance issue or a project?

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1 going to them for approval, and then the project work would  
2 go to Andrew for approval.  
3 Q. And why were those invoices -- why was 178,245.50  
4 in invoices that were ever 60 days and only \$60,000 was  
5 being paid on them?  
6 MS. FRANCIS: Objection. Argumentative.  
7 BY MS. ROHN:  
8 A. The only answer I can give you is as he had  
9 signed off on it, we were making payments.  
10 Q. And why wouldn't he promptly sign off on it?  
11 MS. FRANCIS: Objection. Foundation.  
12 BY MS. ROHN:  
13 A. I don't know specific answers, but generally, it  
14 could have been that there was a discrepancy on time, a  
15 discrepancy on the addition, a discrepancy on the  
16 consumables. You know, I can't -- I'd have to look at the  
17 individual invoice. I don't know the reasons why, but  
18 those are some reasons.  
19 MS. ROHN: Exhibit 173, which is Canning 33 --  
20 313 -- actually, 312 through 316.  
21 (E-mails Bates Nos. Canning 312 to 316 was  
22 previously marked as Exhibit 173 for identification.)  
23 MS. FRANCIS: I'm sorry. Could you say the  
24 exhibit number again, Attorney Rohn?  
25 MS. ROHN: 313 to 316, Canning.

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1 A. Still maintenance. I'd have to look at the exact  
2 dates, but this could have predated Calvin being hired.  
3 MS. ROHN: All right, if you go to 227.  
4 (E-mails Bates No. PIS 7098 previously marked as  
5 Exhibit 227 for identification.)  
6 BY MS. ROHN:  
7 Q. This is an e-mail from yourself,  
8 October 29, 2018, to Santhia Rodriguez, cc Adrian Melendez.  
9 Do you understand Ms. Rodriguez to be the accounting  
10 person at Petro?  
11 A. There were two, but yes, she was one of them.  
12 Q. "We just approved over \$60k today, I need to  
13 speak with Andrew, this catches us up to what he has  
14 reviewed."  
15 Does that mean that each of the invoices from Petro  
16 was being reviewed by Canning?  
17 A. Is it possible to scroll down so I can see the  
18 entire document?  
19 Q. Sure.  
20 It's a number of invoices.  
21 A. Okay.  
22 Yes, a change was ultimately made, as I discussed  
23 earlier. At that point, we were still having Andrew review  
24 every invoice; and then once we got Calvin and Coury, we  
25 then had the maintenance individual specific Petro invoices

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1 MS. FRANCIS: No, the exhibit number, not the  
2 Bates number.  
3 MS. ROHN: 73 -- 173.  
4 BY MS. ROHN:  
5 Q. Who was Ignacio Tolosa?  
6 A. He was the former finance manager at  
7 Seaport Canaveral.  
8 Q. And this is 2017, 2018 O&M expenses over budget;  
9 right?  
10 A. That's correct. Correct.  
11 Q. And then if you go to the second page of that  
12 document, 314.  
13 MS. ROHN: Yeah, that document right there.  
14 BY MS. ROHN:  
15 A. Yeah. Scroll down just a little. Go ahead,  
16 sorry.  
17 MS. ROHN: Scroll down, please.  
18 BY MS. ROHN:  
19 A. Thank you.  
20 Q. What is this?  
21 A. So it's two things. As I had mentioned earlier,  
22 when -- every year IPOS was required to present an O&M  
23 budget, and then once that was submitted, it will be given  
24 to Vitol, who would then work whatever they did and make a  
25 separate budget that was presented to WAPA that we weren't

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1 privy to. Then they would ultimately come back to us and  
2 say that this is what the approved budget is.  
3 And so at the end of that actual fiscal year,  
4 depending on if you were over budget or under budget, there  
5 was a true-up with -- with Vitol, and then as I had  
6 mentioned also -- so some of these could have been  
7 hurricane expenses as well, because it was in that period,  
8 but also the punch list related items, so that was the  
9 transition from the construction to the operation. So for  
10 that fiscal year, that's what the overrun invoice presented  
11 was.

12 Q. Who is Cameron Neal?

13 A. I don't know him. I would -- he works for Vitol.  
14 Must be in their accounting department.

15 Q. And this is addressed to Vitol Virgin Islands  
16 Corporation at 2925 Richmond Avenue.

17 Is that the address of Vitol Inc.?

18 A. I don't know the answer to that.

19 Q. Well, did -- is -- do you know why  
20 Vitol Virgin Islands Corporation or a Virgin Islands  
21 corporation has an address in Houston, Texas?

22 A. I don't know the answer to that.

23 MS. ROHN: 228.

24 (E-mails Bates No. PIS 7104 was previously marked  
25 as Exhibit 228 for identification.)

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1 BY MS. ROHN:

2 Q. Okay, there's an e-mail, it says "PIS 7104."

3 There's an e-mail that says December of 2018 from Coury and  
4 Andy.

5 Is Andy Andrew or is Andy somebody else?

6 A. Andy is Andrew.

7 Q. And they're suggesting, am I correct --

8 MS. ROHN: Would you scroll down, Karima,  
9 please?

10 BY MS. ROHN:

11 A. Not yet. Yeah, thank you.

12 Q. So I take it that this is some --

13 MS. ROHN: Scroll back up.

14 BY MS. ROHN:

15 A. Just to where my name is so I can read. Thank  
16 you. Right there. So I can read.

17 A little too far. Okay, right there. Thank you.

18 Q. All right.

19 MS. FRANCIS: Can the witness review the  
20 document first, please?

21 MS. ROHN: I couldn't understand you.

22 MS. FRANCIS: He is -- the witness is

23 attempting to read the document.

24 MS. ROHN: Okay.

25 MS. FRANCIS: Then you can ask your questions.

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1 MR. BECKSTEDT: While he's reading, I just  
2 want to note, Attorney Rohn, it's 2:53.

3 MS. ROHN: Yeah, I know. This is my last 2018  
4 document, and then I'm going to jet. Okay?

5 BY MS. ROHN:

6 A. Can you just go up a little bit so I can read the  
7 top part, where it says "Coury/David/Granger."

8 Q. In fact, I am going to ask you about the top  
9 e-mail.

10 MS. ROHN: So if you will scroll up.

11 There you go right there. Up.

12 BY MS. ROHN:

13 Q. You say "Hi Alex, Great points. Sorry for the  
14 delay. At the airport going to visit Vitol."

15 Where were you going to go visit Vitol?

16 A. Well, at that point I was at Seaport Canaveral.  
17 It was for a Christmas party in Houston.

18 Q. Was that at the same address?

19 A. We did not go to the office. We just met at a  
20 restaurant.

21 MS. ROHN: All right. That is my last -- this  
22 is my last document for 2018, which is Exhibit 46Z,  
23 which is that document.

24 (E-mails Bates No. IPOS 9245 were previously  
25 marked as Exhibit 46Z for identification.)

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1 MS. FRANCIS: I didn't see a Bates number  
2 because you were scrolling too fast.

3 MS. ROHN: IPOS 9245.

4 BY MS. ROHN:

5 A. Is it possible to scroll to the bottom so I can  
6 look at them?

7 Q. Sure.

8 At the bottom --

9 A. Okay, that's good.

10 Q. From the bottom there are --

11 MS. ROHN: What?

12 MS. FRANCIS: The mouse is obscuring the text.

13 BY MS. ROHN:

14 Q. The bottom is a December 29, 2018, e-mail from  
15 David Nagle to Andrew Canning.

16 A. I see that.

17 Q. It says "Hi Andrew, I hope you had a nice  
18 Christmas. I'm working on finishing up the estimates for  
19 the projects. I will be e-mailing the estimates next week.  
20 Do you know where we stand as far as vendor approval for my  
21 business? I am planning to return on the 6th."

22 MS. ROHN: And then if you scroll up.

23 BY MS. ROHN:

24 Q. There is an -- that says from David.

25 A. If you can scroll back down a little bit, just a

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1 little bit.

2 I see -- I see my part there starting on  
3 December 30th.

4 Q. Right. It says from David to Andrew -- from  
5 Andrew to David. Sorry.

6 "In response to David's question below, this is -- do  
7 you know if Cyla has enough information / entered David's  
8 details into the IPOS system such that he is now an  
9 approved vendor?"

10 And then it says "Have you heard anything more about  
11 the shenanigans around PIS and David Nagle contracting  
12 directly with IPOS? I do feel all the issues with the poor  
13 business practices lay with Adrian, as I have seen -- seem  
14 to get a reasonable and fair response in discussions with  
15 Chad but this never happens to come through to written  
16 agreements."

17 Do you know what Andrew is talking to you about?

18 A. I don't know what happened, but I do know that  
19 David Nagle worked for Petro at some point.

20 Q. No. Okay.

21 A. And then after he left, then we added him as a  
22 vendor and started using his engineering services.

23 Q. Do you know that there was an effort being made  
24 to have David Nagle return as working with Petro, and that  
25 Petro refused to rehire him?

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1 A. I have no knowledge, no.

2 Q. And do you know what shenanigans that Mr. Canning  
3 is referring to around PIS and David Nagle?

4 A. I do not.

5 Q. Was there ever an -- a plan that Petro and  
6 David Nagle would contract directly with IPOS?

7 A. No. What this is referring to is when David was  
8 an employee, that it was being billed through us, and then  
9 when he left, he asked if he could be set -- set up as a  
10 vendor for his own engineering. And that's what -- so  
11 David Nagle contracting directly with IPOS.

12 Q. And what poor business practices of PIS was  
13 Mr. Canning referring to?

14 A. I do not know.

15 Q. Did you ever ask him why he was claiming that  
16 Adrian was responsible for poor business practices?

17 A. Not that I recall.

18 Q. And then you respond on December 30th --

19 MS. ROHN: If you scroll up.

20 BY MS. ROHN:

21 A. Yes, please.

22 Q. "There has been -- I haven't seen anything signed  
23 by David as far as contracts."

24 Then you say "There has been nothing from PIS."

25 What are you referring to?

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1 A. Meaning, it would -- if they had an objection if  
2 we contracted directly with David.

3 Q. And then it says "Can you confirm something was  
4 signed and sent?"

5 What signed and sent?

6 A. That would have been the service agreement  
7 contract with David Nagle. Can you confirm with David  
8 something was signed by him and sent to me.

9 MS. ROHN: So I am at the end of 2018.

10 Shall we come to your office and hopefully in one  
11 hour get Mr. Rivera done?

12 MR. BECKSTEDT: Yes. I believe, yeah, Sam is  
13 set up for the video, and I think everyone is ready to  
14 log on as soon as we get the Zoom going. So we're  
15 here ready to go. Sarah says it should be less than  
16 an hour.

17 (A recess was taken at 3:00 p.m.)

18 (The deposition resumed at 4:22 p.m.)

19 MS. FRANCIS: I object to the recording for  
20 the record.

21 MS. ROHN: Karima, you're ready?

22 MS. JENKINS-GUZMAN: Yes, I am.

23 MS. ROHN: Can we go to Document 46A? This  
24 would be IPOS 9247 and 9248.

25 (E-mails Bates Nos. IPOS 2947 and 9248 were

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1 previously marked as Exhibit 46AA for identification.)

2 MS. ROHN: I think you're going the wrong way.

3 It should have been the one right after the one we are  
4 doing.

5 (Off the record.)

6 MS. ROHN: Karima, this is the one after 46AA.

7 You're way too far.

8 Yep, that's it.

9 MS. FRANCIS: 9247 to what?

10 MS. ROHN: IPOS 9248.

11 Could you go to that, the second page?

12 BY MS. ROHN:

13 Q. If you start at the bottom of that page, it  
14 says --

15 MS. ROHN: Are you at the bottom of that page?

16 Yes.

17 BY MS. ROHN:

18 Q. From Andrew Canning to you, David Smith.

19 "Find attached David Nagle's completed contract  
20 paperwork and the 'agreed' final version."

21 Why would Canning be involved in getting David Nagle's  
22 contract signed?

23 A. He was going to do project work for Andrew, as  
24 well as for Vitol.

25 Q. Was he going to be paid by OPTIS?

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1 A. No. It was direct to David Nagle's company.  
 2 Q. Was David Nagle's company going to get paid by  
 3 IPOS?  
 4 A. Yes.  
 5 Q. And was David Nagle's company going to get paid  
 6 by Mr. Canning?  
 7 A. No.  
 8 Q. Then what do you mean that he was working for  
 9 Canning?  
 10 A. Well, he was providing engineering resources for  
 11 IPOS and for Vitol.  
 12 Q. Well, I thought Canning was an engineer?  
 13 A. He is.  
 14 Q. Why did you need two engineers?  
 15 A. That's pretty standard to have one person doing  
 16 the actual designing, and the other doing the installation.  
 17 Q. And at the bottom of that page it says "We  
 18 discussed the attached project estimates and currently only  
 19 considering the RIO panel shades for which he has some good  
 20 innovative ideas and as the designs cover both islands I  
 21 believe that we should consider progressing these."  
 22 So was Mr. Nagle who designed the RIO shades?  
 23 A. Is there anything else below that, or is that the  
 24 end of the document?  
 25 Q. No, that's the end of the e-mail.

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1 A. There was only supposed to be three people, and  
 2 yet there were four, five, six, depending on the projects  
 3 he was trying to get done.  
 4 Q. Well, did Alex have the authority to hire those  
 5 people or allow them to work?  
 6 A. He had the authority to bring them in, yes, but  
 7 it was my responsibility to then meet the budget, which was  
 8 tell them to go back out and prioritize projects.  
 9 Q. And then if you go to the first page at the  
 10 bottom.  
 11 MS. ROHN: Scroll up. Keep scrolling. Okay,  
 12 right there.  
 13 BY MS. ROHN:  
 14 Q. There's an e-mail from Andrew back to you, same  
 15 January 17th.  
 16 "It was fairly evident that a crunch on finances was  
 17 looming I guess after Vitol put the breaks on the project  
 18 activities without paying what was already owed on work  
 19 completed \$900k."  
 20 And then it has some ideas for cutting back; correct?  
 21 A. I'd like to read the whole document, if possible.  
 22 Q. Sure.  
 23 A. I'll start there and ask when it's ready to  
 24 scroll down.  
 25 Q. Okay. Well, it starts out "I have already

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1 A. Yes, he did the engineering on the RIO shades.  
 2 Q. And then if you go up on that page,  
 3 January 17, 2019, David Smith to Andrew, "Contract and  
 4 Estimates.  
 5 "I'll look at this at this morning. I have some newly  
 6 imposed VTTI deadlines on some due diligence Vitol is  
 7 doing."  
 8 Why would VTTI be giving you deadlines?  
 9 A. That was at the period when ADNOC was looking to  
 10 become a shareholder.  
 11 Q. And why would that be -- give you deadlines?  
 12 A. For Seaport Canaveral, not related to IPOS.  
 13 Q. Who were you being paid by, Seaport?  
 14 A. I was being paid by Seaport.  
 15 Q. This indicates "I also mentioned to Bill this  
 16 morning, Ignacio gave me financials for July 1 to  
 17 December 31st and we are already \$750k over budget on  
 18 maintenance/repair and parts."  
 19 Then it goes down a little bit. "Long story short, as  
 20 many times as I told Petro we are going to run out of  
 21 money, Alex allowed them to overload people."  
 22 Who is Alex?  
 23 A. He was the operations supervisor on St. Croix for  
 24 IPOS.  
 25 Q. What do you mean by "overload people"?

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1 discussed the partial redeployment of the St. Thomas PI --"  
 2 A. The cursor is kind of on the word. I don't know  
 3 what that word is. If they can move it just kind of into  
 4 that -- well, or move it to like -- okay.  
 5 MS. FRANCIS: If someone can move the cursor  
 6 entirely to right of the document, that would help.  
 7 BY MS. ROHN:  
 8 Q. It starts out with "I have already partially  
 9 discussed --"  
 10 A. Yeah. I'm trying to read that, yes.  
 11 Okay, scroll down.  
 12 Q. I'm only going to ask you about the first two  
 13 lines.  
 14 "I've already discussed the partial redeployment of  
 15 the St. Thomas PIS personnel who have used a number of  
 16 months to do non-value adding task by Jean, Coury  
 17 (currently are well-intentioned but not well executed  
 18 painting program, installation of the control room fence  
 19 poles etc.) and Granger."  
 20 Did you form the opinion that they were doing  
 21 non-value tasks? That Petro was doing non-value tasks?  
 22 A. First, I'd still like to finish reading what it  
 23 says about --  
 24 Q. Sir, I have a limited number -- amount of time  
 25 with you. And I'm not asking you about anything that's on

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1 the second page. I'm only asking you about that sentence.

2 MS. FRANCIS: Attorney Rohn, if the witness  
3 needs to read the entire document in order to  
4 formulate an answer about a portion that you would  
5 like to direct his attention to --

6 MS. ROHN: The rest of the document has  
7 nothing to do with the portion I'm asking about.

8 MS. FRANCIS: Right. But he's -- he's not  
9 required to take your word for that, Attorney Rohn.  
10 He's entitled to read the document --

11 MS. ROHN: Court reporter, please note the  
12 turning off of the time and the turning on of the time  
13 while he's reading something that has nothing to do  
14 with the question that I'm going to ask him.

15 MS. FRANCIS: Please note that Attorney Rohn  
16 is trying to prevent the witness from reading a  
17 document that --

18 MS. ROHN: Go ahead. I'm just not going to do  
19 it on my time.

20 MS. FRANCIS: You're asking him to testify  
21 about the document.

22 MS. ROHN: Do not argue with me. Please.

23 MS. FRANCIS: Don't argue with me, please.

24 MS. ROHN: I simply instructed the court  
25 reporter.

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1 (Time noted reading e-mail 16:32:06 to 16:32:16.)

2 BY MS. ROHN:

3 A. Can you repeat the question, please?

4 Q. Sure. "I have already discussed the partial  
5 redeployment of the St. Thomas PIS personnel who have been  
6 used a number of months to do non-value adding task."

7 Did you agree that the work being done by Petro had  
8 non-value?

9 A. That's Andrew's statement. That wasn't mine. I  
10 don't know -- you haven't showed me the top of the document  
11 to see if I responded.

12 Q. My question, sir, to you is: Did you ever form  
13 the opinion that the work the Petro workers were doing had  
14 no value?

15 MS. FRANCIS: Objection. Foundation.

16 BY MS. ROHN:

17 A. Yes, but not because of Petro, because of what  
18 our folks were asking them to do.

19 Q. Okay.

20 MS. ROHN: If you scroll up.

21 BY MS. ROHN:

22 Q. It says "Maybe give Bill a call."

23 Who's Bill?

24 A. He was a consultant that worked approximately  
25 60 days in 2019.

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1 Q. And then you say, "We need to tell Petro, gravy  
2 train over, I've only said it for a year."

3 Who did you tell that they were on a gravy train?

4 A. It would have been Adrian.

5 Q. Did you use the term "gravy train," sir?

6 A. I don't recall.

7 MS. ROHN: Exhibit 231.

8 (E-mails Bates No. PIS 7129 were previously  
9 marked as Exhibit 231 for identification.)

10 MS. ROHN: Keep going. That's it right there.

11 BY MS. ROHN:

12 Q. There's an e-mail from Andrew Canning to  
13 Ms. Rodriguez of Petro that indicates that their rental  
14 charges for a forklift and welding machine were exclusively  
15 for the Aggreko project work and therefore should be -- not  
16 be charged to IPOS.

17 How would Petro know who to charge work to?

18 A. Well, they know what work they're doing. The  
19 work with Aggreko had nothing to do with us. We didn't  
20 make any payments. We didn't -- we didn't control their  
21 people. So if they were doing work there and were using  
22 their own equipment for that, they should be the ones  
23 keeping track of that.

24 Q. And who's Aggreko?

25 A. That's one of the companies that the WAPA

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1 received federal funds after the hurricane to put in in  
2 St. Croix. It's located on our site. They split us in  
3 half in order to give half of it to Aggreko, and Petro did  
4 the tying-in work in order to run it on propane.

5 Q. And then you respond --

6 MS. ROHN: If you scroll up, Karima, please.

7 BY MS. ROHN:

8 Q. On March 28, 2019, re -- "Duplicate no -- no  
9 Rejected Material and Equipment Expenses  
10 November-December 2018.

11 "I'll be in next week. We should sit down and  
12 discuss.

13 "Billing seems to be getting worse. I'm under a lot  
14 of pressure from Vitol since we are so far over budget.

15 And "there is also room for improvement on our side as  
16 well."

17 What are you referencing?

18 (Interruption by the court reporter.)

19 MS. FRANCIS: I said as to what part of that?

20 MS. ROHN: Statements that he made in that  
21 sentence. "Billing seems to be getting worse. I'm  
22 under a lot of pressure from Vitol."

23 BY MS. ROHN:

24 A. Well, for -- for a long time there was a lot of  
25 issues on time sheets where they were incorrect and sent



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1 back multiple, multiple times. From our side, I imagine  
2 that I was talking about the speed in which we were turning  
3 them around.

4 MS. ROHN: And then Exhibit 232, which is IPOS  
5 7130 to 7131.

6 (E-mails Bates No. IPOS 7130 to 7131 were  
7 previously marked as Exhibit 232 for identification.)

8 BY MS. ROHN:

9 Q. If you look at the first -- you look at the  
10 first, it says "Santhia, Please find attached --" this is  
11 from Andrew Canning to Santhia Rodriguez of Petro.

12 "Please find attached --"

13 A. Sorry. I don't -- I don't see that part.

14 MS. ROHN: Karima, please go to the -- no, go  
15 to the first page of this Exhibit 7131. Not  
16 scrolling. Up please. Up. Okay.

17 BY MS. ROHN:

18 Q. Andrew Canning to Ms. Rodriguez of Petro.

19 "Please find attached rejected invoice 3208,  
20 unfortunately the summary spreadsheet and cumulative  
21 charges do not match the associated timesheets."

22 Was Mr. Canning allowed to speak directly to the  
23 contractors and tell them he was rejecting a sheet -- an  
24 invoice?

25 MS. FRANCIS: Objection. Form.

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1 BY MS. ROHN:

2 Q. You may answer.

3 A. For a period of time. She was actually sitting  
4 in the same office as us before Petro had an office, that's  
5 how the work was being done and calculated. But yes, if  
6 there was a problem with the invoice, yes, it was sent back  
7 to them so she could work on it.

8 Q. And why would he be allowed to communicate  
9 directly with contractors?

10 MS. FRANCIS: Objection. Foundation.

11 BY MS. ROHN:

12 Q. You may answer.

13 A. I'm gonna ask -- I'm gonna ask to see the whole  
14 e-mail. The last three times you scrolled up on comments  
15 without allowing me to read.

16 Q. I've asked you a simple question. Why would he  
17 be allowed to speak directly to contractors' employees?

18 MS. FRANCIS: Attorney Rohn, please don't  
19 speak to the witness like that.

20 BY MS. ROHN:

21 Q. There's -- it's not related to a document. I'm  
22 simply asking why Mr. Canning would be allowed to speak  
23 directly to contractors' employees?

24 MS. FRANCIS: Like that refers to a document,  
25 which the witness is entitled to --

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1 BY MS. ROHN:

2 Q. Answer my damn question, please.

3 MS. FRANCIS: Excuse me, Attorney Rohn. This  
4 is not the avenue for profanity.

5 MS. ROHN: Sorry. You have repeated the same  
6 objection over and over again. I note your objection.

7 BY MS. ROHN:

8 Q. Please answer my question.

9 A. How can I answer the question if I can't read the  
10 e-mail?

11 Q. Sir, was Mr. Canning allowed to speak directly to  
12 contractors' employees?

13 A. So in this case, it's a bookkeeper, and in this  
14 case, it was in order to try to expedite payment.

15 Q. Sir, my question is a general question. Was  
16 Mr. Canning allowed to speak directly to contractors'  
17 employees?

18 A. He should have only spoken to either the  
19 administration or to the management, not to direct  
20 employees.

21 MS. ROHN: Exhibit 275.

22 (E-mails Bates Nos. IPOS 4054 to 4071 were  
23 previously marked as Exhibit 275 for identification.)

24 BY MS. ROHN:

25 Q. This is an e-mail 4/4/2'19 --

193

1 MS. ROHN: Sorry. I thought you were there.

2 Scroll up.

3 BY MS. ROHN:

4 Q. This is an e-mail 4/4/2'19 from David Smith to  
5 Eduardo Garcia, Sebastian Moretti, Coury Hodge. "Subject:  
6 Petro contract.

7 "As discussed, here is the contract."

8 MS. ROHN: If you go to the next page,  
9 please, Karima.

10 BY MS. ROHN:

11 Q. Would you agree with me that appears to be a  
12 Services Agreement between IPOS and Petro Industrial?

13 A. From what I can see, yes.

14 MS. ROHN: You can keep scrolling, Karima.

15 BY MS. ROHN:

16 Q. Why would you be sending this contract to Vitol?

17 A. Because of the fact that they were looking to do  
18 additional project work that was not going to be under our  
19 scope, and they asked if we had a contract in place for  
20 them to be able to contact them and use them for project  
21 work.

22 Q. You know whether or not they ever entered into an  
23 individual contract with Petro?

24 A. I do not, no.

25 Q. Did you ever have any discussions with them about



194

1 that?

2 A. I did not.

3 Q. And then --

4 A. Can I get up for just a second to get my drink?

5 Q. Of course.

6 A. I'm not leaving the room. I just need a drink.

7 Q. No worries.

8 A. Thank you.

9 Q. Sure. No worries.

10 MS. ROHN: Exhibit 279.

11 (E-mails Bates Nos. IPOS 4409 to 4410 were

12 previously marked as Exhibit 279 for identification.)

13 BY MS. ROHN:

14 Q. This is IPOS 4409 to 410.

15 MS. ROHN: Keep going. 279. It's the next

16 one I think. There we go. And if you could start at

17 the top and scroll, please.

18 THE WITNESS: Wait. Wait. Sorry. That was

19 too fast. Okay.

20 MS. FRANCIS: Can we scroll up? We can't see

21 the date.

22 THE WITNESS: Okay, you can continue

23 scrolling.

24 Is there any more?

25 MS. ROHN: Yeah, you can go to the next page.

196

1 that's in preparation for the budget to come up with a

2 maintenance and repair number to be presented to WAPA for

3 the annual budget.

4 Q. And did Vitol have to approve that budget before

5 it went to WAPA?

6 A. Yes.

7 MS. ROHN: You can start scrolling. I'm --

8 I'm going through some exhibits I'm not going to use.

9 I'm on 234, so you can start catching up.

10 And if you go to Exhibit -- get to Exhibit 211.

11 Got it.

12 (E-mails Bates Nos. Canning 57 to 60 were

13 previously marked as Exhibit 211 for identification.)

14 BY MS. ROHN:

15 Q. 211 is a "Please find attached agreement for your

16 review. This is a start so let me know any changes that

17 need to be done."

18 That's from Adrian to you.

19 MS. ROHN: Scroll to the top, please.

20 BY MS. ROHN:

21 Q. Correct?

22 If you -- and then if you go -- scroll to two pages

23 later, that's a contract dated August 1st -- part of a

24 contract, the only pages I have of a contract dated

25 August 1, 2019.

195

1 THE WITNESS: Okay.

2 BY MS. ROHN:

3 Q. All right. This starts out on the second page,

4 May 8, 2019, discussing, "Here is the summary that Andrew

5 put together. It is through November, but that was the

6 largest overrun was.

7 "Andrew went through the individual timesheets?"

8 Do you know what time sheets are being referenced?

9 A. Yes. So this was in preparation for the next

10 year's budget. And as you scroll up towards the rest of

11 the conversation, it was a miscommunication between Eduardo

12 and myself. We were -- we thought he wanted to know how

13 much we spent on Petro, because he thought that was the

14 only maintenance work that we were doing for the whole

15 facility.

16 So at that point, we did not have any accounting

17 systems to be able to track any of these costs. It was a

18 system that was ultimately phased out and a new system was

19 put in. So the only way to do it was to go through

20 individual time sheets to find out whether it was for

21 hurricane, whether it was for project, whether it was for

22 operations. And the whole purpose of that, as you could

23 see, it was put -- it was through November. That's where

24 the largest overrun was.

25 If you continue to go up, I'm happy to discuss. But

197

1 Did the contract that was actually entered into in

2 September of 2019, did you then alter that agreement and

3 the original August 2009 agreement?

4 A. I'm sorry. I'm sorry. Can you repeat that? I

5 don't understand.

6 Q. Actually, let me just go to Exhibit 237.

7 (E-mails Bates No. PIS 7200 was previously marked

8 as Exhibit 237 for identification.)

9 BY MS. ROHN:

10 Q. Dated August 29, 2019.

11 MS. ROHN: 237.

12 BY MS. ROHN:

13 Q. This is from Adrian to you. "Please find the

14 attached contract for you to review."

15 And if you scroll to the top, you say "Good afternoon

16 Adrian, Sorry for the delay.

17 "Here is the executed contract."

18 So you executed the contract that was proposed to you

19 by Adrian; is that correct?

20 A. That is correct.

21 MS. ROHN: And Exhibit 205.

22 (E-mails Bates Nos. Canning 25 to 26 was

23 previously marked as Exhibit 205 for identification.)

24 MS. ROHN: Exhibit 205.

25 There you go.

198

1 BY MS. ROHN:  
 2 Q. This is an e-mail from Adrian to Scott Schlueter.  
 3 Do you know who Scott Schlueter is?  
 4 A. That's not what I see on the screen.  
 5 But yes, I do know who Scott Schlueter is.  
 6 MS. ROHN: Scroll up, please. It should be  
 7 document No. Canning 26 in 205.  
 8 You're going the wrong way. Page up. Up.  
 9 There you go.  
 10 BY MS. ROHN:  
 11 Q. This is Adrian Melendez August 26, 2019, to  
 12 Scott Schlueter.  
 13 Who's Scott Schlueter?  
 14 A. I'm happy to answer, but can I see the rest of  
 15 the e-mail? Or is that going to be related to this  
 16 conversation?  
 17 Q. I'm not going to answer -- I'm asking you one  
 18 question about this document. I'm trying to find out who  
 19 Scott Schlueter is.  
 20 A. He was a terminal manager that worked at IPOS.  
 21 He was terminated.  
 22 Q. Okay. And so do you dispute that this is the  
 23 e-mail sending the quote for the No. 1 Flare Line UT?  
 24 A. That's what it appears to be, yes.  
 25 Q. And then that appears to have been sent to

200

1 only find locations with unstable internet.  
 2 BY MS. ROHN:  
 3 A. Do you mind repeating that one more time? I'm  
 4 sorry.  
 5 Q. Yes. Was the reason that the No. -- 1-inch flare  
 6 line in 2019 did not go forward is because Vitol believed  
 7 it was too expensive?  
 8 A. I don't recall.  
 9 MS. ROHN: All right. Exhibit 203.  
 10 (E-mails Bates No. Canning 19 were previously  
 11 marked as Exhibit 203 for identification.)  
 12 MS. ROHN: You're gone way too far. Hold on.  
 13 Just stop for a minute. Stop. What are you in? No.  
 14 Okay, you're right. You're right. Keep going.  
 15 That's the document right before this.  
 16 203. It's a big document.  
 17 Keep scrolling, please. Keep scrolling, please.  
 18 We're looking for Canning 19. I think you've  
 19 gone by it now. Yep, you've gone by it. Yep, you've  
 20 gone couple of documents by it. Exhibit 203.  
 21 There it is.  
 22 BY MS. ROHN:  
 23 Q. Exhibit 203 is an e-mail, January 9, 2019. Start  
 24 at the top. From David Smith to Andrew Canning about the  
 25 "1-inch Export Pump A Line."

199

1 Andrew Canning. Do you see above, if you go to the very  
 2 top, Andrew Canning?  
 3 A. Well, I don't know what's above that; so I don't  
 4 know if that was sent by me.  
 5 Q. I have nothing.  
 6 A. So I don't know -- I don't know who sent that to  
 7 him.  
 8 Q. Is that No. 1 flare line the same thing as the  
 9 No. 1 -- the 1-inch flare line?  
 10 A. Yes, I believe that's correct.  
 11 Q. And was the No. 1 flare line not done in 2019  
 12 because it was decided that it was too expensive?  
 13 A. I'm sorry. We have a note on here says our  
 14 internet connection is unstable. Can you repeat, please?  
 15 Q. Sure. Was the reason that the No. -- the 1-inch  
 16 flare line not done in 2019 is because Vitol thought it was  
 17 too expensive?  
 18 It's not in your e-mail. I'm just simply asking you a  
 19 question.  
 20 A. I'm sorry. No, the network is -- is unstable.  
 21 Can you try one more -- it's just breaking up about every  
 22 third or fourth word. I don't know if it's your side or  
 23 our side.  
 24 Q. Well, I'm looking -- mine is stable so...  
 25 MS. FRANCIS: Attorney Rohn, as you know, I

201

1 "Andrew, Doesn't matter at this point. Scott already  
 2 thinks it costs too much. He told Chad they don't need to  
 3 do UT testing, just visual and I think this is for each  
 4 tank."  
 5 And then it says "I asked Chad for a list of  
 6 everything Scott asked him for. I did sign the Petro  
 7 contract to bring them back.  
 8 "Just trying to get through this hurricane."  
 9 What did you mean by that?  
 10 A. So a couple of things. First of all, just for  
 11 point of order, I believe that that was 91, not 19, so it  
 12 was --  
 13 Q. Oh, right. I'm sorry. You're right. Yes,  
 14 September 1st.  
 15 A. Okay. So I was in Seaport when this happened,  
 16 and we were actually shut down for a hurricane warning; so  
 17 that's what I meant by trying to get through this  
 18 hurricane.  
 19 You know, the Petro contract -- again, this was, as we  
 20 discussed earlier, when we ran out of money, Vitol said we  
 21 had to send them home. And so the new contract starts on  
 22 July 1st, and so, therefore, we were working on a new  
 23 contract for them to bring them back.  
 24 Scott was terminated less than a week after this, so  
 25 that's -- that's why I was involving Andrew in this.

202

1 MS. ROHN: Okay. Exhibit 198, and go to  
 2 Canning 003 in 198.  
 3 (E-mails Bates Nos. Canning 1 to 7 were  
 4 previously marked as Exhibit 198 for identification.)  
 5 MS. ROHN: It's about halfway down.  
 6 I think you've gone past it. Canning 003. No,  
 7 you're right there.  
 8 BY MS. ROHN:  
 9 Q. This is an e-mail about the truck rack.  
 10 Was Petro involved in the truck rack, to your  
 11 recollection?  
 12 A. The internet is -- yeah, the internet is jumping;  
 13 so if I can -- if you can just repeat that. I think I  
 14 understand --  
 15 Q. Sure.  
 16 A. -- what you said, but it's still jumping, the  
 17 Wi-Fi.  
 18 Q. Was Petro involved in the truck rack?  
 19 A. To the best of my knowledge, yes, that -- yes.  
 20 Q. And was that an IPOS project or a Vitol project?  
 21 A. Vitol. It was not an IPOS project.  
 22 MS. ROHN: And if you go to Exhibit 46AB.  
 23 (E-mails Bates Nos. IPOS 9254 to 9256 were  
 24 previously marked as Exhibit 46AB for identification.)  
 25 MS. ROHN: There we go. And if you scroll to

204

1 result of the incorrect torque -- amount of torque? You  
 2 recall that in January of 2020?  
 3 A. I apologize. It's still saying the -- the  
 4 network bandwidth is low. I only heard January 2020.  
 5 Q. Okay. In January 2020 was there a problem with  
 6 the -- trying to figure out how -- how much torque to put  
 7 on the manway closure and a disagreement as to who had told  
 8 what to do as to the torque, that it caused the problem?  
 9 Did you hear that?  
 10 A. I did not. I'm sorry.  
 11 Q. Where are you exactly?  
 12 A. In -- in the conference room. It was fine all  
 13 day.  
 14 MS. FRANCIS: Can we take a two-minute break?  
 15 I'm trying to figure out if we can get technical  
 16 support.  
 17 MS. ROHN: Sure, no problem.  
 18 (Off the record.)  
 19 BY MS. ROHN:  
 20 Q. So my question was: In or about January of 2020,  
 21 was there an incident where there was an attempt to figure  
 22 out how much torque to put on -- hold on. -- the manway  
 23 closure, and there was a disagreement over who had  
 24 recommended the wrong torque between Mr. Canning and Petro?  
 25 Do you recall that?

203

1 the end where this e-mail starts. Scroll down,  
 2 please. Keep going. You've gone too far. Go up one.  
 3 BY MS. ROHN:  
 4 A. I'm sorry, the --  
 5 Q. This is an e-mail from Andrew Canning,  
 6 January 18, 2020, to Merlin Figueira, David Smith, and  
 7 Glenn Sibbick.  
 8 Was Mr. Sibbick still there then?  
 9 A. He had left the Virgin Islands, but he was still  
 10 doing occasional consulting for us.  
 11 Q. Okay. So this e-mail from Andrew to Merlin  
 12 starts out "Prior to any conversation with Chad, I thought  
 13 it best to give you some background to the potential 'over  
 14 torque' of the manway closure on V-208 which occurred  
 15 yesterday. There had been a number of discussions between  
 16 IPOS (Cali)."  
 17 Is that Calvin?  
 18 A. Yes.  
 19 Q. "And PIS (Chad) on the tightening torque required  
 20 in the days leading up to the work and on the morning of  
 21 the 17th Bryan Melendez came to my office and asked for  
 22 confirmation of the torque required which I said I would  
 23 look into."  
 24 So was it -- did there come a time that there was a  
 25 problem with how the torque was done and some problems as a

205

1 A. Can I see the entire e-mail? I see that part  
 2 that you're talking about.  
 3 Q. This I'm asking you a general question. Do you  
 4 recall a problem with the incorrect torquing in that  
 5 project?  
 6 A. I don't recall that specifically, no.  
 7 Q. So, yes, you can read --  
 8 MS. ROHN: Please note the time he spends  
 9 reading this.  
 10 BY MS. ROHN:  
 11 Q. -- the Andrew Canning to Merlin Figueira and a  
 12 copy to yourself.  
 13 A. Is that above that? The one that's on the screen  
 14 I've read. Well, you need to scroll down.  
 15 MS. ROHN: Scroll down a little bit, will you,  
 16 Karima. If you can keep scrolling.  
 17 BY MS. ROHN:  
 18 Q. Are you still reading?  
 19 A. Clearly a new line paragraph; so you can  
 20 scroll --  
 21 MS. ROHN: Can you scroll up a little bit  
 22 further? There you go.  
 23 BY MS. ROHN:  
 24 A. Yes.  
 25 Okay. Thank you.

206

1 (Time noted reading e-mail 17:10:56 to 17:11:38.)

2 Q. And the last line of that says "I assume that I  
3 have your support in continuing to ensure the physical and  
4 technical integrity of the plant despite attempts to  
5 undermine this by communicating incorrect information with  
6 you directly."

7 Do you know what was being referenced there?

8 A. It was not me. I believe, if you go back up, it  
9 must have been to Merlin.

10 Q. Okay. But wasn't he accusing someone of telling  
11 Merlin incorrect information about what caused the problem  
12 with the torque?

13 A. I can't speak to Andrew's mindset on it.

14 Q. Okay. And then if you go to the next page, it  
15 starts out --

16 MS. ROHN: No, up. Up. Sorry.

17 BY MS. ROHN:

18 Q. If you go to -- yes, you see it starts right  
19 there, it says "Andrew."

20 MS. ROHN: Now scroll back down. Down. There  
21 it goes.

22 BY MS. ROHN:

23 Q. It's Merlin to Andrew. "Let's have a Starleaf  
24 discussion on Wednesday between yourself, David and me. We  
25 need your support of protecting the integrity of the

207

1 Facility and we need to work jointly to figure out how can  
2 we -- how we can effectively do so without any ripple  
3 effects in the VI."

4 Do you know what Merlin was referring to?

5 A. I don't know what he was specifically referring  
6 to, no.

7 MS. ROHN: And then if you scroll up to go to  
8 the first page.

9 BY MS. ROHN:

10 Q. There's an e-mail from Andrew to yourself, not  
11 copied to Merlin.

12 "David, it's not easy trying to understand what Merlin  
13 reads into things, definitely a difficult management  
14 style."

15 Did you -- first of all, did you think that was an  
16 appropriate e-mail to get from Mr. Canning?

17 A. I would not have sent it. No.

18 Q. And then he goes on to say "Were you there on  
19 St. Croix during the meeting between Merlin and Chad where  
20 they allegedly tried to say I was requesting the wrong  
21 closure torque? If he continues to tiptoe around  
22 incompetent practice and potentially undermine me then this  
23 could become untenable. PIS know I am straightforward,  
24 robust and fair in my dealings with them, so I don't see  
25 any issue with calling non-competence incompetence.

208

1 "As a matter of interests, is there a date or  
2 candidate for the permanent Terminal manager?"

3 Do you think this was a proper e-mail for Mr. Canning  
4 to be sending to you?

5 MR. SIMPSON: Objection.

6 BY MS. ROHN:

7 Q. You may answer.

8 A. I mean, I encourage everybody when they have  
9 issues to raise them to me. Again, I would not have  
10 written it this way.

11 Q. And who did he think he was referring to about  
12 tiptoeing through incompetence?

13 A. I think you'd have to ask Mr. Canning. I'm not  
14 sure.

15 Q. Well, isn't the clear inference Chad who tried to  
16 claim that it was he who made the mistake?

17 MS. FRANCIS: Objection. Asked and answered.

18 BY MS. ROHN:

19 Q. You may answer.

20 A. I wasn't at that meeting; so I don't know if it  
21 was Chad or, you know, who he was referring to.

22 MS. ROHN: And if you scroll up to the top of  
23 the page.

24 BY MS. ROHN:

25 Q. There's an e-mail from yourself to

209

1 Andrew Canning, again, not copying Merlin.

2 "Hi Andrew, Sorry I missed this.

3 "I was present about the discussion on the torquing.  
4 Brian had sent Adrian an e-mail or text saying he had the  
5 manufacturers spec there. We didn't see it, Merlin just  
6 said, 'if you have the spec, go ahead.'

7 "I think the concern about the incompetence boils back  
8 to the litigious nature of VI, right or wrong they can  
9 start a case based upon nothing. I think he was tiptoeing  
10 but I could be wrong. Cali said he didn't walk it down  
11 with you, he didn't turn -- didn't turn it back to  
12 operations, so we thought it was the wrong forum to say  
13 prior to allowing you the chance to discuss."

14 What are you referencing there?

15 MS. FRANCIS: Objection. Vague.

16 BY MS. ROHN:

17 A. Yeah, I --

18 MS. FRANCIS: You just read four sentences.

19 BY MS. ROHN:

20 A. I don't remember this.

21 Q. Okay.

22 MS. ROHN: Exhibit 46AD.

23 (E-mails Bates No. IPOS 9366 were previously  
24 marked as Exhibit 46AD for identification.)

25 BY MS. ROHN:

210

1 Q. There is an -- I'll let you read it.  
 2 MR. BECKSTEDT: What exhibit was this? I'm  
 3 sorry.  
 4 MS. ROHN: 46AD. It's an IPOS 9366.  
 5 MR. BECKSTEDT: Thank you.  
 6 MS. FRANCIS: You say AB as in boy?  
 7 MS. ROHN: D as in dog.  
 8 BY MS. ROHN:  
 9 Q. Let me know when you're ready for her to scroll.  
 10 A. Yes, ma'am.  
 11 Okay, you can keep going down.  
 12 Okay, I've read it. I don't know if there is more to  
 13 scroll or if that's it.  
 14 Q. This starts out with an e-mail from Merlin to  
 15 Andrew Canning and yourself, David Smith.  
 16 "Alex, Calvin and I are going to meet Adrian and Chad  
 17 for lunch today. I am going to tell him that we have  
 18 discussed internally the quotes for the 1-inch vent line  
 19 and that due to the urgency and concerns from others on the  
 20 timing of the placement, we want to move ahead with the  
 21 quotations we already have."  
 22 Then if you scroll up, there's from Andrew Canning to  
 23 yourself and Garry Stoker.  
 24 "Sensitivity: Company Confidential."  
 25 What does that mean?

212

1 this morning before this all emerged, we have continued to  
 2 turn up multiple examples of Dave Tilden either totally  
 3 incompetent or attempting to hide excessive mark-up through  
 4 technical specification alteration and price hiking through  
 5 multiple corrective re-quoting and this incident suggests  
 6 that the motive for this may after all be corrupt.  
 7 "I would consider the actions of Dave Tilden for  
 8 Traeger Brothers and Adrian Melendez of Petro Industrial to  
 9 be corrupt and anti-competition and are worthy of removal  
 10 of both companies from IPOS approved vendors list."  
 11 What did you do when Mr. Canning advocated that  
 12 because Petro used a quote from Traeger Brothers that they  
 13 should be thrown off the job?  
 14 A. We -- we didn't remove Traeger or Petro for this.  
 15 So again, Andrew is entitled to his position or his  
 16 opinion, but we didn't act on this.  
 17 Q. Well, did you counsel Mr. Canning that this was  
 18 inappropriate?  
 19 A. I'm sure I probably did verbally. I don't  
 20 remember any more discussion about it.  
 21 Q. Well, would you agree with me that failure to  
 22 tell Mr. Canning that these types of e-mails are  
 23 inappropriate would only encourage him to continue?  
 24 MR. SIMPSON: Objection.  
 25 BY MS. ROHN:

211

1 A. That's -- that's Andrew's own. I don't know. It  
 2 came from OPTIS. That's not anything I'm familiar with.  
 3 Q. "David, I just heard from David Nagle that  
 4 Dave Tilden at Traeger Brothers had informed him in  
 5 discussion today that he had sent Adrian Melendez all the  
 6 material quote and fabrication quote information for the  
 7 1 inch line work. I have no idea why he did this, as it is  
 8 at a minimum unprofessional but probably more exactly  
 9 corrupt. No wonder Adrian and Chad were confident they  
 10 would -- could be competitive in their revised quotation,  
 11 but I suspect the quality aspects will have been  
 12 overlooked. I did wonder why Merlin, Cali and Alex were  
 13 suddenly invited out for lunch today -- I wonder what the  
 14 purpose of this has been?"  
 15 Is this an appropriate e-mail for Mr. Canning to be  
 16 sending to you?  
 17 MR. SIMPSON: Objection.  
 18 MS. ROHN: Noted.  
 19 MS. FRANCIS: Objection. Beyond the scope.  
 20 BY MS. ROHN:  
 21 Q. You may answer.  
 22 A. I would not send an e-mail like this.  
 23 Q. It goes on to say "Apparently Dave Tilden has  
 24 done the same before on earlier activities that we had been  
 25 working on with supply through Traeger Brothers. As I said

213

1 Q. You may answer.  
 2 A. I don't know that I can speak for Andrew,  
 3 whether, you know, I would tell him that.  
 4 Q. Do you have any present recollection of telling  
 5 him that this is -- he should stop these types of e-mails?  
 6 A. Not specifically related to this. However, yes,  
 7 I have had verbal conversations with him about that.  
 8 Q. What would be the general substance of those  
 9 verbal conversations?  
 10 A. Again, this is not the -- an appropriate type of  
 11 e-mail. I mean, it's -- to anyone. I don't send e-mails  
 12 like this to anyone; I don't expect to receive them from  
 13 anyone on that.  
 14 Q. Well, did you threaten Mr. Canning that if he  
 15 kept doing that that his job would be in jeopardy?  
 16 A. Well, at this point, when the timing of this was  
 17 happening, there's already discussions of moving him over  
 18 to Vitol; so there was essentially no threat that I could  
 19 make or did make to -- to have him removed.  
 20 Q. Did you warn Vitol about his behavior?  
 21 A. I don't recall.  
 22 Q. Do you remember when he went to Vitol?  
 23 A. It officially happened as the change of the  
 24 fiscal year; so it would have been June 30th of 2020, less  
 25 than six months, but the budget process was already



214

1 underway for the next -- for that -- for that cycle.

2 Q. So officially he went to Vitol in June of --  
3 June 30, 2020?

4 A. That's correct. It might -- I mean, July 1st,  
5 June 30th. I guess June 30th was last day with IPOS.  
6 July 1st first day with Vitol.

7 Q. Okay.

8 MS. ROHN: Please go to 46AE.

9 (E-mail Bates No. IPOS 9385 was previously marked  
10 as Exhibit 46AE for identification.)

11 MS. ROHN: It's after 300. Okay, this is it,  
12 I think. Keep going.

13 Yeah, 46AE. Can you scroll back up to the top?

14 BY MS. ROHN:

15 Q. So this is August 4, 2020. This would have been  
16 supposedly when Mr. Canning worked for Vitol. But he is  
17 sending an e-mail to you, "Subject: Panic Stations.

18 "Shame that you were not on the maintenance call,  
19 Merlin is in full panic mode speculating on the pipe  
20 degradation in St. Croix bump alley, following a planned  
21 review with David Nagle, Merlin, Alex and Chad with him  
22 leading the team into not very well thought out options.  
23 It now appears to -- it now appears to an indecisive mess  
24 coming out of discussions with no clear strategy. Sadly  
25 this all appears to be driven by either PIS good intentions

215

1 (proposing patching an rewelding to replace small type  
2 stabbings) or a grab for work rather than following the  
3 logic of what was planned, but Merlin is the  
4 Operations/General Manager.... and he appears to be running  
5 scared again."

6 As a Vitol -- now working for Vitol, why would  
7 Mr. Canning be sending that e-mail to you?

8 MR. SIMPSON: Objection.

9 BY MS. ROHN:

10 Q. You may answer.

11 A. He was still involved with projects, and that is  
12 as we were again transitioning pass-through and projects.  
13 You know, it certainly wasn't -- again, he certainly had  
14 the ability to notify me of issues that he thought was --  
15 could impact the safety of the facility.

16 Q. Did you investigate this?

17 A. I don't recall. I do think -- I -- I don't  
18 recall.

19 Q. Did you report this to Vitol?

20 A. I don't recall.

21 Q. Did you tell Merlin what Mr. Canning was up to?

22 A. I'm sure that I had a conversation with Merlin  
23 about Andrew and the -- trying to decide which was the  
24 correct path to go on this.

25 Q. Do you remember what you decided was the correct

216

1 path to go?

2 A. I don't. I know that the work was ultimately  
3 completed, 'cause -- but -- but I really don't know. This  
4 is that 1-inch vent line project. I don't remember  
5 specifically after this what happened.

6 MS. ROHN: Exhibit 264.

7 (E-mails Bates No. PIS 7239 were previously  
8 marked as Exhibit 264 for identification.)

9 BY MS. ROHN:

10 Q. And this goes from the bottom up.

11 So there's an e-mail from Adrian, September 10, 2008.

12 "Thank you once again for your time and understanding.

13 Please find the attached updated agreement for your review  
14 and signature."

15 And then Merlin -- if you scroll up.

16 MS. ROHN: Scroll up, please.

17 BY MS. ROHN:

18 Q. Merlin says to Adrian and Chad, and you're copied  
19 on this, "I wanted to add that we note that both Johnny and  
20 Jackman are both excellent Employees. They diligently work  
21 to get the job done without any complaints. They also do  
22 quality work. So from our viewpoint these 2 Employees are  
23 a good choice to recognize with a raise."

24 And you say "I completely agree."

25 A. Can you show me?

217

1 Q. Oh, I'm sorry.

2 MS. ROHN: Scroll up. Sorry. There we go.

3 BY MS. ROHN:

4 Q. Did you understand that Johnny was the guy that  
5 ran the St. Thomas crew for Petro?

6 A. Yes. Yes.

7 Q. Are you aware that Mr. Persaud has testified that  
8 Mr. Canning asked him to come over on the St. Thomas jobs  
9 because he couldn't understand or work with Johnny?

10 MR. SIMPSON: Objection.

11 BY MS. ROHN:

12 Q. You may answer.

13 MS. FRANCIS: Objection. That  
14 mischaracterizes testimony. It does not point to a  
15 specific page or line in the transcript.

16 BY MS. ROHN:

17 A. Yeah --

18 Q. Are you aware of that?

19 A. I'm not aware of that.

20 Q. Did you have any trouble working with Johnny?

21 A. No.

22 Q. Did you ever have a problem understanding Johnny?

23 A. No.

24 MS. ROHN: Exhibit 460.

25 (E-mails Bates Nos. IPOS 6667 to 6668 were



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1 previously marked as Exhibit 460 for identification.)  
 2 BY MS. ROHN:  
 3 Q. Okay. This is an e-mail. I'll let you scroll  
 4 and read it.  
 5 MS. ROHN: So start at the top, please.  
 6 BY MS. ROHN:  
 7 Q. It starts from Andrew Canning December 15, 2020,  
 8 to you, "PIS Reprimand. Sensitivity Confidential."  
 9 MS. ROHN: If you will scroll down a little  
 10 bit so he can read the first part of the e-mail.  
 11 Scroll down, please. There you go.  
 12 BY MS. ROHN:  
 13 A. Yes.  
 14 Q. Can you read that?  
 15 A. I can. I'll let you know when I'm ready to  
 16 scroll.  
 17 Q. Okay.  
 18 A. Can you scroll up a little bit, please.  
 19 Q. Up or down?  
 20 A. I don't know, but that's the correct way.  
 21 Okay.  
 22 Q. So this is an e --  
 23 A. Yeah.  
 24 Q. E-mail -- this is an e-mail. The original e-mail  
 25 is from Andrew Canning to David, you, and Merlin. And it

220

1 A. There was still a pass-through, and because of  
 2 the fact that the invoices would have come to us, and he  
 3 was rejecting it, I believe he was probably trying to let  
 4 us know. I don't know if he sent another separate e-mail  
 5 to them and didn't copy us.  
 6 Q. And then it says "During the absence yesterday  
 7 the good progress of the morning by the welding team  
 8 stopped almost completely in the afternoon when Elias was  
 9 absent."  
 10 Do you know why Elias' absence would stop the welding  
 11 team?  
 12 A. I believe he was the one that just gave the  
 13 deposition. He's the welding supervisor, is what I believe  
 14 he just said; so that would -- that would be the only  
 15 reason that I could think is that the supervisor wasn't  
 16 there on-site.  
 17 Q. And then if you scroll up to the top of the page,  
 18 there's an e-mail from Merlin to Canning and yourself, and  
 19 he says, "Thanks for the description and talking directly  
 20 with Chad. I too will talk to Chad once I return late this  
 21 week to understand his version. There is an element of  
 22 trust between us and PIS and I'd like to hear -- I will  
 23 like to hear what Chad has to say and to get reassurance  
 24 from him that the Timesheets are factual and accurate."  
 25 Did you and Merlin discuss this e-mail between Canning

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1 starts out "There may be some negative feedback from a  
 2 discussion this morning which culminated in me refusing to  
 3 sign timesheets for three of the PIS team: Chad, Frank,  
 4 and Elias.  
 5 "The reason I refused to sign off 10 hours for the  
 6 three individuals is that they were absent from site most  
 7 of the afternoon under the auspices of going to the bank."  
 8 It says that "I believe there was -- their purpose was for  
 9 cash transaction between Elias and Chad. And this event  
 10 was a culmination of several absences over the last week  
 11 whereby Chad & Frank would disappear for an hour or two on  
 12 errands some of which were agreed and required two persons  
 13 (not necessarily Frank the safety person) but of the few  
 14 that I was informed about, most could have been done by one  
 15 person."  
 16 Was this Mr. Canning's -- working for Vitol, was this  
 17 Mr. Canning's job about saying whether people were going to  
 18 the bank and who was going? Is that part of his job now?  
 19 MR. SIMPSON: Objection.  
 20 BY MS. ROHN:  
 21 A. This project was a Vitol project; so he was  
 22 making us aware of it. So he was supervising or overseeing  
 23 that project for them.  
 24 Q. But why wasn't he sending this e-mail to  
 25 Charlotte and Tim K.? And why was he sending it to you?

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1 -- the sent to Canning -- by Canning to you and Merlin?  
 2 A. I don't recall specifically discussing this  
 3 e-mail.  
 4 Q. Did you ever do any investigation into the claims  
 5 that Canning was making about the Petro employees?  
 6 A. Well, in this case, I'm sure that Merlin did talk  
 7 to Chad, and that they came to some kind of resolution.  
 8 That's how -- how I would do it as well, is if there's a  
 9 problem, talk to the person directly and solve it.  
 10 MS. ROHN: Okay, Exhibit 46I.  
 11 (VIWAPA Security Guard Log Sheet was previously  
 12 marked as Exhibit 46I for identification.)  
 13 MS. ROHN: That's it right there.  
 14 MR. BECKSTEDT: Was this 46I?  
 15 MS. ROHN: Yeah. IPOS 2635.  
 16 What I did was I took the documents out 46 and  
 17 gave them letters so I didn't have to go through the  
 18 whole thousand pages in Exhibit 46.  
 19 BY MS. ROHN:  
 20 Q. Do you recognize this as the Virgin Islands Water  
 21 and Power Security Guard Log Sheet?  
 22 A. It's -- it's very poor quality, but yes, that's  
 23 what I -- that's what it appears to be, yes.  
 24 Q. And can you see the handwriting for -- on that  
 25 for the 1, 2, 3, 4, 5, the first five for January 13, 2021?

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1 A. I can only see that it's handwriting. I really  
2 -- I can't -- I can't read it.  
3 Q. Can you -- can you discern whether or not it  
4 appears to be the -- as to those five the same handwriting?

5 MS. FRANCIS: Objection. Foundation. Calls  
6 for speculation.

7 BY MS. ROHN:

8 A. I really -- I -- I really don't know.

9 Q. Okay.

10 MS. ROHN: 280.

11 (E-mails Bates No. IPOS 4074 were previously  
12 marked as Exhibit 280 for identification.)

13 BY MS. ROHN:

14 Q. All right, this is IPOS 4074. It starts at the  
15 bottom. It's from Adrian to Andrew Canning, Chad Persaud,  
16 David Smith, Merlin, and it says "Please find three  
17 attachments that include the following:

18 "Change Order No. 1 that was sent to Time on 12/12/19  
19 regarding the changes from Polaris on the Loading Rack that  
20 still need to get approved.

21 "Change Order 2 - Regarding the electrical disconnect  
22 and re-install the loading skid due to anchoring.

23 And No. 3, Budget from the Electrical Scope for the  
24 Reversed Loading based on the SOW from Suris."

25 And if you scroll up, this is dated January 5, 2021.

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1 If you scroll up on April 28, 2021, Andrew Canning  
2 responds, "Tim," that's Tim K.; correct?

3 A. Yeah. I believe in the bottom where you read  
4 time, I think it was a spelling error and meant that it was  
5 sent to Tim.

6 Q. Oh, okay.

7 "Petro Industrial are requesting PO, purchase orders,  
8 for the above variations of the truck rack, electrical  
9 scope changes around the purge panel which I note includes  
10 a shelter shade which was removed in preference and the  
11 electrical connection reconnection of the truck rack. I  
12 cannot recall if these were approved by yourself can you  
13 confirm whether this is the case, please?"

14 So do you have any idea why between January 5, 2021,  
15 and April 28, 2021, Andrew Canning is just now asking about  
16 these purchase orders that are outstanding?

17 MR. SIMPSON: Objection.

18 MS. FRANCIS: Objection. Foundation.

19 MS. ROHN: Noted.

20 BY MS. ROHN:

21 A. What I don't know is if there's any other e-mails  
22 that I'm not copied on. This truck rack project, even  
23 though Adrian sent it to us, was a pass-through project;  
24 so, therefore, I know it had to be approved by Tim prior to  
25 us executing the payments. So I only know that I was

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1 copied here then, but I don't know if -- I mean, I believe  
2 that probably Adrian had also sent it to Tim directly for  
3 approval, as he said there for the change orders and didn't  
4 get feedback either.

5 Q. And then on May --

6 MS. ROHN: If you scroll up.

7 BY MS. ROHN:

8 Q. On May 17, 2021, you respond to Tim K. and  
9 Andrew Canning, "Tim, I'm following up on this. Petro is  
10 saying we are more than 90 days on payments and they are  
11 asking what needs to happen. I've only been on the fringe,  
12 but IPOS can't make payment until receive some feedback."

13 You mean from --

14 A. From Vitol, from Tim. So, yeah. If there was no  
15 response, then I'm sure I went back to the April 28th  
16 e-mail after Adrian called me and said can you help me get  
17 some payments on this. And so then I try to make that case  
18 to Vitol to approve it.

19 MS. ROHN: Exhibit 305.

20 (Time Records Bates Nos. IPOS 289 to 293 were  
21 previously marked as Exhibit 305 for identification.)

22 MS. ROHN: That's 305.

23 MS. FRANCIS: I'm sorry. What is the Bates  
24 number?

25 MS. ROHN: IPOS 289 to 293.

225

1 MS. FRANCIS: Thank you.

2 BY MS. ROHN:

3 Q. Do you recognize that's a Petro logo in the  
4 corner?

5 A. I believe that's what it's supposed to be. It's  
6 a pretty bad copy and handwritten, but yes, I believe  
7 that's Petro.

8 Q. And do you understand that these are the time  
9 records given to -- well, if you scroll down.

10 MS. ROHN: Scroll down.

11 BY MS. ROHN:

12 Q. See the signature --

13 MS. ROHN: No, Stop. Stop. Just on this one  
14 page.

15 BY MS. ROHN:

16 Q. See the signature of Calvin Schmidt?

17 A. Yes.

18 Q. You understand these to be time records for IPOS  
19 -- I mean, for Petro?

20 A. Yeah, it's -- it's some sort of timekeeping, yes.

21 MS. ROHN: So if you scroll to the one that  
22 says January 13, 2021.

23 BY MS. ROHN:

24 Q. See that one? The day that Mr. Canning swear --  
25 claimed that the workers claim that they were working eight

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1 hours for IPOS.

2 Do you recall that claim that Mr. Canning would be --  
3 made? Eight hours a day when they were -- had signed in  
4 fraudulently? Do you recall that charge Mr. Canning made?

5 MR. SIMPSON: Objection.

6 BY MS. ROHN:

7 A. I don't remember. I remember discussing that. I  
8 don't remember the date.

9 Q. Well, do you see on this work hours that there's  
10 only a bill for a total of nine hours?

11 MR. SIMPSON: Objection.

12 MS. FRANCIS: Objection. Foundation.

13 BY MS. ROHN:

14 Q. If you scroll down you will see that  
15 Calvin Schmidt approved that time sheet? You see that?

16 A. Yes.

17 Q. Could Canning overrule Calvin Schmidt's approval  
18 of the time sheet?

19 A. Not on the maintenance, no.

20 MS. ROHN: Exhibit 46T.

21 (E-mails Bates Nos. IPOS 8440 to 8441 were  
22 previously marked as Exhibit 46T for identification.)

23 MS. FRANCIS: Bates number, please?

24 MS. ROHN: This is IPOS 8440.

25 BY MS. ROHN:

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1 Q. January 21, 2021. Andrew Canning to  
2 Santhia Rodriguez, David Smith, Coury Hodge,  
3 Cyla Gooding, Adrian Melendez, Chad Persaud,  
4 Merlin Figueira, Kunal Patal.

5 It says "Updated AR." What's an AR?

6 A. Accounts receivable. That came from Petro. It's  
7 an RE, and so I guess a reply all. It's not a forward.

8 Q. Was Andrew Canning allowed to tell Petro how --  
9 what kinds of time sheets they had to fill out?

10 A. Again, for the Vitol reimbursable projects, he  
11 had that authority.

12 Q. All right.

13 MS. ROHN: Let's go to 46G.

14 (E-mails Bates Nos. IPOS 2621 to 2623 were  
15 previously marked as Exhibit 46G for identification.)

16 BY MS. ROHN:

17 Q. This is an --

18 MS. FRANCIS: Bates number, please.

19 MS. ROHN: It's IPOS 261 through 2623.

20 BY MS. ROHN:

21 Q. And to you and Merlin, the RIO Shade Progress.

22 And if you go down to the middle of the page, there's  
23 an allegation. "There have been numerous occurrences over  
24 the two weeks that would appear to have been instigated  
25 intentionally to stall the progress of the installation."

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1 First one, "Poor timekeeping - It was made clear from  
2 the start of the work that there was no justification in  
3 working more than the regular 8 hours Monday to Friday time  
4 shift for the installation however the following are a  
5 sample poor timekeeping.

6 "Wednesday, 13th of January, 2021. I received a call  
7 from Chad at 7:41 to say that the PR team had been called  
8 out to the Cruzan Rum to fix a leak and they would not be  
9 on-site until around 9:30. They arrived at 9:45, had a  
10 1 hour lunch break, a 30 minute afternoon and left at  
11 around 15:10. They submitted a timesheet for 8 hours which  
12 was rejected and the hours marked down to 6 which was  
13 generous given the actual site hours."

14 So does that tie you back to the January 13th sheet  
15 which was signed off on by Calvin Schmidt?

16 A. No, this is a project. Calvin was signing off on  
17 the general maintenance I believe.

18 Q. Okay.

19 A. So it's two different crews. This is for the RIO  
20 panels. So again, it was a Vitol project, Vitol  
21 reimbursable. And what I believe that Calvin signed off on  
22 was for the general maintenance crew that was on-site that  
23 day.

24 Q. And then if you go to the last -- page 2622. Is  
25 that 2622?

229

1 A. That's the number I can see on the bottom.

2 Q. Okay. The bottom of 2622.

3 It says "as far as I am concerned the performance,  
4 timekeeping, quality of work and overall  
5 abilities/objectives of the following individuals has been  
6 unacceptable on a number of levels both in the RIO shade  
7 installation on St. Croix and during previous Reverse Flow  
8 installation work on St. Thomas. If this is not the case  
9 then I can only assume that they are complicit with PIS in  
10 an objective of maximizing the earnings for PIS for time  
11 and materials activities.

12 "PIS welding team individuals involved with the  
13 underperforming installation activities are Elias Rivera."

14 MS. ROHN: Let's go to the next page. Scroll  
15 down.

16 BY MS. ROHN:

17 Q. "Ricardo Velazquez and Juan Guigliotty.

18 "My recommendation is that these individuals be  
19 removed / barred from attending the site in future and  
20 classified as 'Not Required Back' for any current or future  
21 Vitol project work and also any work that PIS may want to  
22 engage them for IPOS operations activities associated with  
23 Vitol assets."

24 Did Mr. Canning have the ability to throw workers of a  
25 contractor off the job?

230

1 MS. FRANCIS: Objection. Foundation.

2 MR. SIMPSON: Objection.

3 BY MS. ROHN:

4 A. That's a question for Vitol. So, again, this  
5 project is different than what we were talking about  
6 before. This is a project paid for by Vitol and managed by  
7 them.

8 Q. But this also is recommending that IPOS not allow  
9 them on the job either. Did you take him up on that  
10 suggestion?

11 A. We -- no, we didn't take him up on that  
12 suggestion. Again, these were specialized crew and not the  
13 normal maintenance crew; and so there's not a lot of  
14 welding and work that was done on the maintenance side.

15 MS. ROHN: If you go to 46E, please.

16 Actually, you can go to 46B.

17 (E-mails Bates No. IPOS 1401 were previously  
18 marked as Exhibit 46B for identification.)

19 BY MS. ROHN:

20 Q. This is an e-mail from Canning, January 23, 2021,  
21 to yourself and Merlin. "Sensitive --"

22 A. Can you scroll up?

23 Thank you.

24 Q. It says -- starts out "Find attached the security  
25 gate sign-in sheet."

231

1 So he's talking about January 13th again.

2 If you go to the second paragraph, "I think this is a  
3 further example of the lies, deceit and what could be  
4 regarded as fraudulent activity that surround this  
5 particular PIS team. We as a project have always carefully  
6 scrutinized the time and expense claims for all contract  
7 activities and I am confident that the timekeeping and  
8 honesty of the embedded PIS maintenance team is good.  
9 However with the dishonesty exhibited by this particular  
10 team now evident, it may be prudent to review the time  
11 recording and event cost of St. Thomas boiler room access  
12 platform remembering that PIS (albeit maybe at the  
13 transition from Vivot) had previously quoted 15,000 for the  
14 installation at St. Croix."

15 Sir, when he sent you this document accusing people of  
16 lies and deceit and fraudulent activity, and this is now  
17 considerable months after he started doing this activity,  
18 did you have a conversation with him about this?

19 A. I'm not sure if this is the document. I'm not  
20 sure what's above that, but I know that there was something  
21 that we had produced for you where Merlin addresses the RIO  
22 shades and the bidding. So I don't know if you're able to  
23 scroll up, and if I can see if that's the one --

24 MS. ROHN: You can scroll up.

25 BY MS. ROHN:

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1 Q. All you say -- it's from you, all you say in the  
2 e-mail, "If this is correct, we also have to speak to our  
3 Security company. They should not allow anyone to be  
4 misrepresenting time on site."

5 There's nothing in the e-mail that says, Mr. Canning,  
6 this is not appropriate e-mail.

7 A. Well, I don't know specifically which one, but I  
8 know that there has been a document provided to you that  
9 specifically refers to this.

10 Q. And did you chastise Mr. Canning for his  
11 defamation?

12 MS. FRANCIS: Objection.

13 MR. SIMPSON: Objection.

14 MS. FRANCIS: (Indiscernible - Simultaneous  
15 speech.) -- conclusion. This witness is not a  
16 lawyer, and, therefore, cannot testify as to what is  
17 or is not defamation.

18 MR. SIMPSON: Objection.

19 MR. BECKSTEDT: Objection.

20 BY MS. ROHN:

21 Q. Okay. Sir, did you ever chastise him about  
22 accusing people of deceit, fraud, lies?

23 A. How would you define chastise?

24 Q. Mr. Canning, you should not be doing that, and I  
25 don't expect to see you do it again. That would be a good

233

1 start.

2 MR. SIMPSON: Objection.

3 BY MS. ROHN:

4 Q. Did you do that, sir?

5 A. There was definitely a conversation held about  
6 the allegations made. Again, like I said, the document has  
7 been provided that you'd be able to see how we did  
8 specifically address this.

9 Q. Sir, there's been 25,000 documents produced in  
10 this case. So the ability to find that needle in this  
11 haystack was quite difficult.

12 So what do you recall saying to him about this?

13 MS. FRANCIS: Attorney Rohn, I understand  
14 we've been going a long time, but that tone of voice  
15 with this witness is not appropriate.

16 BY MS. ROHN:

17 Q. What do you recall having conversation about?

18 MS. FRANCIS: Objection. Asked and answered.

19 BY MS. ROHN:

20 A. If I -- again, I don't recall specifically. I do  
21 know that we addressed it, and this might have even been a  
22 lump sum quote or a not to exceed quote. I really don't  
23 know without the document in front of me. So, therefore,  
24 no matter how it was managed, it wouldn't have been  
25 appropriate. But again, without the --

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1 Q. Well, sir, let me tell you, this is the RIO  
2 shade, it was in fact a not to exceed quote. So how if  
3 they're spending more time would they be bilking anyone?

4 MR. SIMPSON: Objection.

5 BY MS. ROHN:

6 A. Again, I never said that they were bilking  
7 anyone; so I can't answer that. But I can tell you again,  
8 it was addressed because of the fact it was a not to exceed  
9 quote and said that that wasn't appropriate. They can  
10 manage it anyway they want.

11 MS. ROHN: All right. If we go to 46P, which  
12 is IPOS 667.

13 (E-mails Bates Nos. IPOS 6677 to 6678 were  
14 previously marked as Exhibit 46P for identification.)

15 BY MS. ROHN:

16 Q. Which appears to be more response to this, that I  
17 found somewhere else.

18 And then there's -- if you see --

19 MS. ROHN: If you scroll up.

20 BY MS. ROHN:

21 Q. You see your "Thank you Andrew," and then, scroll  
22 up there's actually a response from Merlin.

23 "Agree David, we just need to check the data through  
24 our CT -- CCTV system."

25 What is that?

235

1 A. Our video camera system.

2 Q. That would tell you when they came in and when  
3 they came out?

4 A. Well, it could, yes.

5 Q. Did you ever do that?

6 A. No, because once we determined this one  
7 specifically was a lump sum, that's when we made the  
8 determination again it doesn't matter.

9 Q. Okay.

10 MS. ROHN: And then if you go to 56R (sic).

11 (E-mails Bates No. IPOS 8701 were previously  
12 marked as Exhibit 46R for identification.)

13 BY MS. ROHN:

14 A. Can I take 15 seconds just to turn the air  
15 conditioning down. The sun is coming in, and it's very  
16 warm.

17 Q. You know what, would you like to take a 10-minute  
18 break so you can go to the bathroom or do whatever you  
19 want?

20 A. I just wanted to make it a little cooler. I  
21 don't know how much time is left so...

22 Q. Are you back?

23 A. Yes.

24 MS. ROHN: If you go to 56R.

25 BY MS. ROHN:

236

1 Q. So this is from Merlin -- this is from  
2 Mr. Canning to yourself, and David Smith, "St. Croix  
3 Turbine Cavity Blowdown System Replacement.  
4 "During Monday's WAPA KO meeting I was interested to  
5 hear Adrian discuss the current location of the personnel  
6 that PIS plan to use on the Gas Turbine cavity vent system  
7 replacement. He stated that one person was coming from  
8 Puerto Rico and two were already on St. Croix. I am hoping  
9 that the one person from Puerto Rico is not Elias Rivera  
10 (but rather a welder certified to weld 3E1) and the other  
11 two are not Ricardo Velazquez and Juan Guigliotty, who were  
12 redeployed to Cruzan Rum."

13 Why would Mr. Canning have the ability to tell you who  
14 he hopes Petro will not bring on the job?

15 A. This is a Vitrol project; so he was managing it.

16 Q. But he's not writing this to Vitrol. He's writing  
17 it to you.

18 A. Again, we grant the access to the site for  
19 allowing people in. We pay for the security as well.

20 Q. So did you ever deny access to the site of Elias  
21 and the other two?

22 A. Not to my knowledge. The reality is, I'm not  
23 sure if it's this e-mail; however, in a document I know we  
24 produced, Merlin researched it and found out he wasn't  
25 there to work on-site for us, and so, therefore, it was a

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1 non-event.

2 MS. ROHN: You can start scrolling because I'm  
3 going through a bunch of exhibits, and one of them is  
4 big.

5 All right, if we go to 48A. This is the grating  
6 stuff.

7 I told you that's a big document; so you're going  
8 to have to scroll through it.

9 (E-mails Bates No. IPOS 271 were previously  
10 marked as Exhibit 48A for identification.)

11 MS. ROHN: 48A, it is IPOS 271. It's dated  
12 February 11, 2021.

13 46B, it was next page at 46B.

14 BY MS. ROHN:

15 Q. It appears to be Andrew Canning's Near Miss  
16 Report.

17 Was it a requirement that he do a Near Miss Report?

18 A. Can you scroll down just so --

19 Q. I'm sorry.

20 MS. ROHN: Scroll down a little bit, Karima.

21 BY MS. ROHN:

22 A. The other way, I guess. That's fine.

23 But, yes, it is a requirement that any accident,  
24 incident, near miss, we have something called lifesaving  
25 rules is required to be reported.



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1 Q. And is he supposed to give that near miss to  
2 IPOS?  
3 A. Yes. We have a system that captures. We don't  
4 distinguish between contractors, vendors, employees. We  
5 record everything into a system to be able to track that  
6 any corrective actions that are necessary and learn from  
7 it.

8 MS. ROHN: If you scroll up to the top.

9 BY MS. ROHN:

10 Q. It says, from Merlin, "Andrew, We just spoke and  
11 glad you didn't get hurt more than you did. We spoke of  
12 the preventive measures we will implement shortly?"  
13 What preventive measures were those?

14 A. From what I understand at the time was that Petro  
15 acknowledged that they did not have enough clips for there,  
16 and so they were going to get clips and make the repairs.  
17 And then, again, I think it was going to be some sort of  
18 access restriction or notification to the employees.

19 Q. And then it says "Coury/Ganger will liaise with  
20 you --"

21 A. Liaise.

22 Q. Yeah.

23 -- "should you need further support in writing the  
24 Near Miss Report."

25 Was there any further Near Miss Report?

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1 A. It was ultimately put in. It was not put in by  
2 Andrew. He didn't have access to VTTI system. So Granger  
3 ultimately put it into our system.

4 MS. ROHN: Exhibit 48Q.

5 Is that 48Q? I mean, sorry, 46Q.

6 (E-mails Bates Nos. IPOS 6693 to 6700 were  
7 previously marked as Exhibit 46Q for identification.)

8 MS. ROHN: If you'll go to the Bates-stamped  
9 No. 6695. I believe that might be. Yeah, that's it.  
10 If you will scroll to the top of the page.

11 BY MS. ROHN:

12 Q. There's an e-mail from Merlin, February 14, 2021,  
13 to yourself.

14 "Hello David, I think the differences of opinion and  
15 animosity between Andrew and PIS and the IPOS team have  
16 reached an apex and I have concerns, right or wrong, that  
17 there may be repercussions.

18 "I have not spoken with PIS as yet, but the direct  
19 conversations I have had with Coury, Calvin and Granger are  
20 disturbing. I'm not sure how to gauge that - is it  
21 vindictiveness to a lapse in the Boiler platform  
22 installation oversight by Coury/Calvin or is it Andrew  
23 tying to make a case to throw PIS under the Bus.

24 "My concern is that all three parties; Andrew, PIS,  
25 IPOS staff are unlikely to back down and to restart with a

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1 clean slate without us doing something. Therefore, once  
2 you settled down from the events of last week let's have a  
3 chat."

4 Did you talk to Merlin about this?

5 A. Yes, I did.

6 MS. ROHN: If you go to Bates-stamped 6697.

7 MS. FRANCIS: Attorney Rohn, can we take a  
8 break. We've now been going in excess of an hour.

9 MS. ROHN: As soon as I finish this one  
10 exhibit, we certainly can.

11 BY MS. ROHN:

12 Q. 6697, you respond the same day, "Merlin, I  
13 completely agree. If half of what Petro says happened,  
14 there is only trouble brewing.

15 "We should regroup while he is out and make sure we  
16 are aligned and make sure Garry is aware then Sebastian  
17 again."

18 When you say "regroup while he is out," are you  
19 referring to Mr. Canning?

20 A. Yes.

21 Q. And what had Petro told you?

22 A. This was the e-mail that I believe you showed me  
23 earlier from Adrian where he had been told by -- I don't  
24 want to speak out of turn, but I think you showed me the  
25 document, the e-mail by Adrian that Chad and Frank said

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1 that Andrew was going to sue IPOS and Petro related.

2 Q. So what did you understand to be the animosity  
3 and vindictiveness?

4 A. I think specifically where -- you're referring to  
5 Merlin's comments?

6 Q. Yes, I am.

7 A. Is it okay to go back up to that so I can see --

8 Q. Sure.

9 MS. ROHN: That's 6695. Oh, actually I could  
10 have gone down on the page you were on, but sorry.

11 MS. FRANCIS: I don't think we're seeing what  
12 the witness asked --

13 MS. ROHN: Go to 6697 again, Kamia -- Karima.  
14 And if you can scroll down, you can see -- scroll  
15 down a little bit. Scroll down. Scroll down.

16 BY MS. ROHN:

17 Q. That's Merlin's original e-mail.

18 A. Okay, yes. Thank you.

19 So the boiler work, as you can see, where he's talking  
20 about IPOS, that was done by Coury and Calvin. So, you  
21 know, that's what Merlin is stating is it that Andrew was  
22 upset he wasn't involved in that project or ultimately  
23 that, you know, it wasn't done correctly or was more cost.

24 So that's the -- the IPOS side. Or is it, again, is it  
25 Andrew trying to make it a case to throw Petro under the



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1 bus.

2 That's where you asked for the -- I think you said  
3 animosity. I forget the exact word that you used.

4 Q. Vindictiveness.

5 A. Oh, vindictiveness. Okay. Vindictiveness.

6 Sorry.

7 Yeah, so the vindictiveness is directly on, again, you  
8 know, this boiler project was a maintenance project, not a  
9 Vitol project. And so Merlin is surmising is that -- is  
10 that what caused the friction between IPOS and Andrew.

11 Q. So would you think that -- did you draw the  
12 conclusion -- you and Merlin draw the conclusion that the  
13 reason that Canning was being so negative towards Petro was  
14 because he was not being involved in the work that they  
15 were doing?

16 MS. FRANCIS: Objection.

17 BY MS. ROHN:

18 Q. You may answer.

19 A. I can't speak to what Andrew was thinking or not  
20 thinking.

21 Q. Well, did you guys draw the conclusion that that  
22 was one of the motivating factors?

23 MS. FRANCIS: Objection. Foundation.

24 BY MS. ROHN:

25 A. I don't recall.

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1 MS. ROHN: Okay, let's take a short break.

2 (A recess was taken at this time.)

3 MS. FRANCIS: Before we start, I just want to  
4 make clear we been going for more than six and a half  
5 hours with this witness. It is now 6:21 p.m.

6 During the deposition of Mr. Melendez, there was  
7 a representation by counsel for Petro that she had to  
8 pick up kids and that 5 o'clock was the cut-off, and  
9 Mr. Melendez, who is sitting in counsel's office,  
10 needed to move his car.

11 And so while we have been accommodating, other  
12 counsel may need to ask questions, and this witness  
13 cannot stay here all night. That's not fair. It's  
14 not reasonable given the number of depositions in this  
15 matter. So --

16 MS. ROHN: I'm entitled to seven hours, and we  
17 broke to take another deposition. So please don't  
18 convey the idea that we have been going with this  
19 witness until this time, as we have indeed gone with  
20 other witnesses as well.

21 MS. FRANCIS: We have gone longer with this  
22 witness than any single witness in this case.

23 MS. ROHN: Okay. And I don't -- great. And  
24 that just took more time, and that will not go against  
25 the time of my deposition. So is there anything else

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1 you would like to say before I start the deposition?

2 Could you go on the record, please.

3 Can you go on the record please, or are we on the  
4 record?

5 THE COURT REPORTER: We are on the record.

6 MS. ROHN: Exhibit 295, please.

7 (E-mails Bates No. IPOS 4856, 4839, 4840, 4838  
8 were previously marked as Exhibit 295 for  
9 identification.)

10 MS. ROHN: 295. Go ahead. Keep going. Just  
11 scroll quickly, please. You're going up instead of  
12 down.

13 Okay, thank you. You did find it. You're doing  
14 exactly right.

15 295, can you go to Bates-stamped 4840? Actually,  
16 4839. So if you can go up to 4839. To the bottom of  
17 that page.

18 BY MS. ROHN:

19 Q. There's an e-mail from Tim K. to Merlin,  
20 Charlotte. And if you go down to 4840, there's a list of  
21 documentation that are needed for the No. 3 vent line.

22 Do you agree that that listing there prior to  
23 commencement of work and after construction completion was  
24 a list of documentation at the beginning of the project  
25 that Charlotte informed Vitol would be needed on this job?

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1 A. I'm not copied on that e-mail, but me reading it,  
2 yes, I would agree.

3 MS. ROHN: 46X.

4 Actually, I can skip that.

5 303.

6 (E-mails Bates Nos. Canning 14278 to 14280 were  
7 previously marked as Exhibit 303 for identification.)

8 MS. ROHN: It is after 288, so keep scrolling.

9 Keep scrolling, please. It's after 288.

10 Okay, there it is. That's 303. Thank you.

11 BY MS. ROHN:

12 Q. 303 is an e-mail --

13 MS. FRANCIS: What is the Bates number?

14 MS. ROHN: The Bates numbers on this are  
15 Canning 14278 through 4280.

16 And if you'll go to Canning 14278, which is the  
17 third page of this e-mail.

18 That's it right there.

19 BY MS. ROHN:

20 Q. There is an e-mail from Merlin to Andrew Canning  
21 and copied to yourself. "Conference Call on Monday.

22 "I like to have a call amongst us to reset our  
23 relationship as there have been a few hiccups these last  
24 few weeks. Can we have a Starleaf call on Monday?"

25 Were you aware of what Mr. Merlin was talking about

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1 when he sent out this e-mail saying that he wanted a  
2 Starleaf call with Mr. Canning and Adrian Melendez?  
3 A. Not specifically, but some of the documents that  
4 we've seen, I mean, it could be some of the issues related  
5 to the RIO panels and the handling of that and some other  
6 things we've discussed today, but specifically, no.

7 MS. ROHN: If you go to 14279, which is the  
8 first page of that exhibit.

9 BY MS. ROHN:

10 Q. And this is Canning's response to Merlin,  
11 yourself and Garry Stoker.

12 First of all, do you know why Garry Stoker would be  
13 added to this by Mr. Canning?

14 A. I don't.

15 Q. "Merlin, I do not think the intended purpose of  
16 the telephone conference on Monday with Petro Industrial  
17 will be met ("to reset our relationship as there have been  
18 a few hiccups after these last few weeks") unless I better  
19 understand the comments you made in our brief telephone  
20 discussion on Saturday where you talked about my -- 'my  
21 continued interference with the operation and operations  
22 led work.' I believe it is worth discussing this and  
23 several other recent comments that you have made outside of  
24 a call with the IPOS contractor PIS in an environment where  
25 we can hopefully agree on how the working relationships may

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1 operate in the future."

2 Were you aware of a call between Merlin and Canning  
3 about his interference with operation and operations?

4 A. Not that I recall.

5 MS. ROHN: If you go to the second page of  
6 that exhibit.

7 BY MS. ROHN:

8 Q. Mr. Merlin copies you, takes Mr. Stoker off, and  
9 says, "However, the comment that I made to you yesterday  
10 was to reach out to me on issues of a project that is under  
11 operations control."

12 What do you understand to be under operations'  
13 control?

14 A. So we call ourselves operations regardless of the  
15 individual group. So Calvin and Coury, while they're  
16 maintenance supervisors, were an operational entity. So  
17 that's what he means by any maintenance project that would  
18 have been completed, not as part of a project.

19 Q. And he says "What I don't like to see is you  
20 asking questions and/or giving directions to Contractors  
21 under our direct control. For example, you were asking the  
22 Security Guard for the Gate Logs. Both David and I have  
23 spoken to you before of the sensitive of your review of  
24 those logs."

25 Had you spoken to Mr. Canning about the sensitivity of

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1 review of those logs?

2 A. I don't recall.

3 Q. Do you know why reviewing those logs would be  
4 sensitive?

5 A. Well, if -- if you're -- if you're going to look  
6 at the logs, there are no secrets in IPOS or in that  
7 facility; so somebody is going to tell somebody which is  
8 then going to add animosity.

9 Q. "In spite of discussing this with you, this  
10 situation has reoccurred. As we discussed before the need  
11 for you to have the gate information is not a problem, but  
12 your direct request is creating a problem for us as  
13 previously discussed."

14 Had you had such discussions with Mr. Canning before?

15 A. No, I believe Merlin is talking about for himself  
16 and Andrew discussed.

17 Q. Goes on to say "The issue yesterday was that I  
18 was informed by PIS that you stopped the work. I got this  
19 from Petro, and for that reason I called you. My point to  
20 you yesterday was to reach to me or Calvin first if you  
21 have any questions or concerns and not engage the  
22 Contractor who is working on an IPOS supervised project. I  
23 didn't say to you in any way to 'not interfere in our work'  
24 or words as such."

25 Were you aware of Mr. Canning stopping PIS work?

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1 A. I was not.

2 Q. Did Mr. Merlin discuss that with you?

3 A. I don't recall.

4 Q. "The reason I like you and Petro on a call is  
5 last week you spoke of a Petro employee who you believe may  
6 be 'living in an IPOS site.' At the time, I asked  
7 questions of you as a safety issue for us if someone is  
8 indeed living on site as you perceived and not Petro or IPS  
9 was -- not Petro or IPOS was aware of your observations."

10 Were you ever aware of a Petro employee living  
11 on-site?

12 A. No, ma'am.

13 Q. Did you discuss this with Merlin?

14 A. No.

15 Q. Did you agree with Merlin that he should stop  
16 having direct conversations with contractors, particularly  
17 Petro?

18 MS. FRANCIS: Objection. Form. Vague.

19 BY MS. ROHN:

20 Q. Did you agree -- go ahead.

21 A. No, as I said earlier, anyone can stop a job for  
22 a safety reason, even if you're wrong. If you are wrong  
23 and stop it, then we sit down and talk about it. You know,  
24 so again, not knowing the specifics as to why this was  
25 stopped, and I still haven't seen where it says that's the

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1 specific behind it, stopping work is not -- is something we  
2 always allow anyone to do, contractor, anyone in the site,  
3 even if you're wrong so...

4 But I do understand Merlin's concern about Andrew  
5 taking care of his projects and leaving the operations  
6 folks take care of the operations and maintenance.

7 MS. ROHN: If you can go to 46K, which is  
8 right after 289.

9 (E-mails Bates No. IPOS 6262 were previously  
10 marked as Exhibit 46K for identification.)

11 MS. FRANCIS: Bates, please.

12 MS. ROHN: Bates stamps IPOS 6262.

13 If you could scroll faster, I'm running out of  
14 time here. Right after 289. I think you've gone too  
15 far.

16 What date are you on? You are definitely way too  
17 far.

18 46K is April 24, 2021. Do you have them listed  
19 by number? Can you just click on the one for the  
20 exhibit?

21 (Off the record.)

22 MS. JENKINS-GUZMAN: Can you see the document?

23 THE WITNESS: I can see a document.

24 MS. FRANCIS: We cannot see a date of that  
25 document. We cannot see who it was sent to or who the

251

1 sender was.

2 Thank you.

3 Now you need to scroll so the witness can read  
4 the document. Scroll down, please.

5 THE WITNESS: Can you go back up just a little  
6 bit? Thank you. Right there's good.

7 Can you continue to scroll towards the bottom of  
8 the e-mail, please?

9 Thank you.

10 MS. FRANCIS: Sorry, please scroll down.

11 Please scroll down into the body. Thank you.

12 Scroll down just a little bit, please. Thank  
13 you.

14 Attorney Rohn, is there a question pending?

15 MS. Guzman, did we lose Attorney Rohn?

16 MS. ROHN: Yes. I answered three times.

17 BY MS. ROHN:

18 Q. Is this a statement -- it's a operations project  
19 or a special project?

20 MS. FRANCIS: I think you were on mute while  
21 you thought you were asking questions.

22 MS. ROHN: Thank you.

23 BY MS. ROHN:

24 Q. Can he answer the question? Hello?

25 A. Yes. Yes. No. No, I'm -- I believe this was

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1 the -- the 1-inch project, which would have been a Vitrol  
2 project, I believe.

3 Q. And the bottom of the first -- of the page, says  
4 "Given the concerns over direct (potentially controversial)  
5 communication with the contractors including the general  
6 contractor PIS, I wonder if you could highlight the poor  
7 practice concerns summarized above and ask what they plan  
8 to do to mitigate the issues to date and going forward?"

9 First of all, this was -- were you supposed to address  
10 these projects -- these issues with Petro if it was a  
11 special projects project?

12 A. If it was a Vitrol project, then -- then, I mean,  
13 again, we have interaction because we would be issuing  
14 permitting and such, but, no, we were not responsible for  
15 the project.

16 Q. At the top of it it says --

17 MS. ROHN: Top of the document.

18 BY MS. ROHN:

19 Q. It says "Thanks Andrew we will discuss with PIS."  
20 Was there discussion with PS -- PIS that you're aware  
21 of?

22 A. I'm not aware.

23 Q. Okay.

24 MS. ROHN: So, Karima, can you now go to 46C?  
25 And I think it would be quicker to go out and then

253

1 just go to the document than scrolling.

2 (E-mails Bates No. IPOS 1972 were previously  
3 marked as Exhibit 46C for identification.)

4 MS. FRANCIS: What are the Bates numbers,  
5 please?

6 MS. ROHN: She hasn't gotten to it yet.

7 MS. FRANCIS: I thought you had a paper copy  
8 in front of you, Attorney Rohn.

9 MS. ROHN: Well, I haven't had an answer to  
10 whether she can go out and go back into 46C.

11 There we go, I guess she can.

12 The Bates number is IPOS 1972.

13 MS. FRANCIS: Thank you.

14 BY MS. ROHN:

15 Q. July 13, 2021.

16 MS. ROHN: Can you scroll down, please?

17 Thank you.

18 BY MS. ROHN:

19 Q. Andrew Canning to yourself, no cc to Merlin.  
20 Do you recall getting this e-mail from Mr. Canning?

21 A. The one from July 13th there on the screen?

22 Q. Yes, sir.

23 A. Yes.

24 Q. Okay. He indicates "It was interesting to see

25 Elias was back on the scene at the PIS offices and also see

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1 his reaction when he knew I was on the call - slipping to  
2 one side of the camera, any idea if he or others from the  
3 slack working team have reappeared on site?"

4 Who did you understand to be "the slack working team"?

5 A. I don't know. I mean, I -- I can't speak for  
6 Andrew. I suspect it was the other e-mail that -- for the  
7 people that he had during the RIO panel. I think it was  
8 Juan, Elias, and I don't remember the name of the third  
9 person that he had asked to be removed from the project.  
10 It was something we discussed earlier.

11 Q. It says "On a related subject, I have some real  
12 concerns with the poor quality work fabrication that PIS  
13 has been producing and Merlin appears to have been  
14 accepting over recent months."

15 Did you have any discussion with Merlin about whether  
16 or not he was accepting poor quality work from PIS?

17 A. Well, at this point, Merlin was already -- had  
18 left and Terry had been on the job for about eight days.  
19 So -- so again, seeing this now, no, I did not reach out to  
20 Merlin. I believe my response was Terry is going to be  
21 proactive and make his own determination.

22 Q. He says "The lack of PIS fabrication quality and  
23 QA compliance is something I would like to address with you  
24 and Terry once he is in position."

25 Did he ever have a discussion with you about that?

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1 A. I believe right after this is when the whole  
2 discussion started related to the welder qualification. So  
3 I don't believe that that conversation happened.

4 MS. ROHN: Could you go to the next exhibit,  
5 which is 46L?

6 46L, the very next document. There we go.  
7 (E-mails Bates Nos. IPOS 6275 to 6277 were  
8 previously marked as Exhibit 46L for identification.)  
9 BY MS. ROHN:

10 Q. This is the same e-mail, but you have an e-mail  
11 from David to Terry saying "FYI, I told you that  
12 Andrew/Merlin have a cold war going on.

13 "I told Andrew it would be good to talk to you and I  
14 when he gets back."

15 When had you told Terry that Merlin and Andrew had a  
16 cold war going on?

17 A. I mean, sometime in that prior week. Terry had  
18 started I believe July 5th.

19 Q. And what made you think there was a cold war  
20 going on?

21 A. I believe we discussed this earlier. It was they  
22 did not agree on engineering and how projects should be  
23 done, and there was -- as we've seen through several of  
24 these e-mails today, there's definitely some concern

25 between the two of them about the other and how they -- how

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1 they work.

2 MS. ROHN: If you could go to 252. It's  
3 probably easier to go out and come back in.  
4 (E-mails dated July 15, 2021, were previously  
5 marked as Exhibit 252 for identification.)

6 MS. ROHN: It's probably easier if you come  
7 out and go back in. It's a lot of documents away.

8 Please go out and come back in. You're -- this  
9 is a June document. You are passed it.

10 Wait, wait, wait. Scroll up. 252. Sorry, you  
11 were there.

12 MS. FRANCIS: What's the Bates number?

13 MS. ROHN: I don't know. The sticker is on  
14 top of the Bates number. Sorry.

15 BY MS. ROHN:

16 Q. You see this where it says from Tim K.,  
17 July 15, 2021.

18 "We're having issues gaining access to the Dropbox.  
19 Can you please invite myself and Andrew to the files."

20 And then there's an e-mail added to the Dropbox. It  
21 says "Adrian Melendez shared 3-inch vent line - QC Book  
22 with you."

23 What do you understand QC Book references?

24 A. At this point, I did not have access to the  
25 Dropbox so... But QC is quality control.

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1 Q. All right. Did you -- oh, I think we've had this  
2 conversation.

3 MS. ROHN: Can you go for to 46S, which there  
4 is one exhibit in between, which is 273. It has about  
5 four pages and it's 46S.

6 (E-mails Bates Nos. IPOS 7864, 7865, 7845, 7846  
7 were previously marked as Exhibit 46S for  
8 identification.)

9 MS. ROHN: That's it right there.

10 BY MS. ROHN:

11 Q. This is an e-mail from Andrew Canning to yourself  
12 and Garry Stoker again.

13 Do you know why Andrew Canning keeps adding  
14 Garry Stoker?

15 A. They've known each other for more than, I don't  
16 know, 15, 20 years. I don't know how long but a long time.

17 Q. And starts off -- this July 20, 2021. "Per our  
18 conversation this morning, I am now as certain as I can be  
19 that the welders certification (WPQ) presented by  
20 Petro Industrial Services are not genuine."

21 And then he goes on to list that they had been edited  
22 by the welder's name.

23 A. Can you scroll down, please?

24 Q. Sure.

25 MS. ROHN: Scroll down, please.

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1 BY MS. ROHN:  
 2 A. As you're saying it. Thank you.  
 3 Q. And then --  
 4 MS. ROHN: Keep scrolling.  
 5 BY MS. ROHN:  
 6 Q. He lists the various things that he find to be  
 7 anomalies. And then he says "At best this falsification  
 8 puts VTTI in a very embarrassing position with Vitol and  
 9 WAPA at --"  
 10 Why would it put VTTI in an embarrassing position with  
 11 Vitol and WAPA?  
 12 MS. FRANCIS: Objection. Calls for  
 13 speculation.  
 14 BY MS. ROHN:  
 15 Q. You may answer.  
 16 A. Because of the fact that our contract says that  
 17 we're going to certify, do everything safely, do everything  
 18 within industry standards and records.  
 19 Q. And then he says "at worst it compromises the  
 20 lack of quality assurance comprises the integrity of the  
 21 asset not only for this work but for all other fabrication  
 22 undertaken by this particular team and possibly other  
 23 previous fabrications undertaken by PIS 'certified  
 24 welders'. Even worse is the potential affect on the supply  
 25 of propane to WAPA which could require a full stoppage

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1 Terry?"  
 2 Do you recall what you sent him in a separate e-mail?  
 3 A. I don't recall.  
 4 Q. And why did you have -- wanted to have a meeting  
 5 with just he and you before talking to Merlin and Terry?  
 6 A. To find out, you know, the reason why he put all  
 7 these allegations down and what the concerns were, so we  
 8 could determine what the best path forward was.  
 9 MS. ROHN: All right. The next exhibit, 47U.  
 10 (E-mails Bates Nos. IPOS 8835 to 8836 were  
 11 previously marked as Exhibit 47U for identification.)  
 12 MS. ROHN: The next exhibit, 47U.  
 13 BY MS. ROHN:  
 14 Q. So if you'll scroll to the bottom of that  
 15 document, on July 20th, the same day, you have an e-mail  
 16 from David Smith to Andrew Canning.  
 17 "I spoke with Garry. He wants us to get it moving  
 18 right away. I have 8am or 10am for the call with Merlin."  
 19 Why did you speak to Garry?  
 20 A. Again, he's the chief operating officer,  
 21 responsible for operations. He was copied on the e-mail.  
 22 Andrew is not an employee, uhm, of the company; so,  
 23 therefore, Garry wanted to talk to me.  
 24 Q. And what was the substance of your conversation?  
 25 A. I don't recall.

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1 during the replacement of the compromised systems."  
 2 Did you agree with that supposition that that's what  
 3 would happen as a result of this confusion over the  
 4 certifications?  
 5 MS. FRANCIS: Objection. Form. Objection to  
 6 the extent that the question mischaracterizes the  
 7 document.  
 8 BY MS. ROHN:  
 9 Q. Sir, did you? Can you answer my question?  
 10 A. Yes. Yes, I can answer your question.  
 11 Yes, at the very at least, it puts our credibility on  
 12 the line. Again, not being an engineer, the concerns  
 13 raised for something that we needed to investigate to  
 14 figure out what would happen or could happen.  
 15 MS. ROHN: And then if you go to 46D, which  
 16 is the next exhibit.  
 17 (E-mails Bates Nos. IPOS 1973 to 1974 were  
 18 previously marked as Exhibit 46D for identification.)  
 19 BY MS. ROHN:  
 20 Q. At the top you say --  
 21 MS. FRANCIS: What's the Bates number?  
 22 BY MS. ROHN:  
 23 Q. You respond to Andrew to that same e-mail.  
 24 "Hi Andrew, I sent you a separate e-mail earlier. Can  
 25 we have a call you and I then meeting adding Merlin and

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1 Q. Well, was it about Petro?  
 2 A. Yes.  
 3 Q. And was it about what to do about the allegations  
 4 against Petro?  
 5 A. Yes.  
 6 Q. And did Garry make any recommendations to you?  
 7 A. I don't recall the recommendations. However,  
 8 after -- after that, we brought Andreas, who's the -- we  
 9 spoke about him earlier, the global technical director, and  
 10 he took over from there. So it must have been advice to  
 11 get people involved there that had the technical knowledge.  
 12 Q. And Canning responds to you.  
 13 MS. ROHN: If you scroll up.  
 14 BY MS. ROHN:  
 15 Q. "You know my views on complicity an Merlin."  
 16 What were his views on complicity of Merlin?  
 17 MS. FRANCIS: Objection. Foundation.  
 18 BY MS. ROHN:  
 19 A. Yeah, as you can see it from some of his previous  
 20 comments that you put in front of us today, you know, he  
 21 believed that Merlin was friendly with Petro at the risk of  
 22 work being performed and quality of work.  
 23 Q. Then it says "I assume the message going out will  
 24 be that VTTI (namely Merlin) has initiated the  
 25 investigation and the presumed resultant immediate



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1 suspension of all PIS activities and immediate exclusion  
2 from site of all PIS personnel as a preemptive measure to  
3 show decisive action to Vitol, therefore eliminating the  
4 need for me to inform Vitol and removing me from the direct  
5 involvement. (But I'm pretty sure Merlin will tell PIS  
6 anyway)."

7 Did you agree that immediately PIS should be removed?

8 A. I -- I didn't agree. I mean, this is Andrew's  
9 comment. This was not my comment.

10 Q. And was he threatening that if you didn't remove  
11 PIS, he would go to Vitol and tell Vitol what was going on?

12 A. I can't speak to what Andrew is trying to convey  
13 here about a threat or not.

14 MS. FRANCIS: Attorney Rohn, we are now at  
15 6:59 p.m. It is 10 hours after this deposition was  
16 noticed. We have been on the record for seven hours  
17 and two minutes with this witness. And this  
18 deposition is therefore concluded, subject to other  
19 counsel having an opportunity to cross-examine  
20 Mr. Smith.

21 We have been more than accommodating. We have  
22 had a series of questions that should have been  
23 directed to other witnesses who appeared for  
24 deposition. This is not fair or reasonable to anyone.  
25 We have a deposition at 9:00 a.m. tomorrow. So your

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1 questions --

2 MS. ROHN: I only have ten minutes more, and  
3 I'd like to complete.

4 MS. FRANCIS: You do not have ten minutes.  
5 You have one day of seven hours. Your seven hours has  
6 concluded, Attorney Rohn.

7 BY MS. ROHN:

8 Q. Who made the decision to terminate Petro?  
9 Please answer my question.

10 MS. FRANCIS: You have two minutes. So ask  
11 your two most important questions. Your one day of  
12 seven hours, Attorney Rohn, has concluded. This is  
13 not fair or humane.

14 MS. ROHN: You're just taking up more time.

15 BY MS. ROHN:

16 Q. Can you answer my question, please?

17 MS. FRANCIS: Don't speak to the witness that  
18 way, please.

19 BY MS. ROHN:

20 Q. Who made the decision to terminate Petro?

21 A. I made the decision to terminate Petro.

22 Q. Did you do a consultation with anyone else?

23 A. I reviewed all of the facts and -- all from the  
24 technical folks and made the decision.

25 Q. Did anybody -- did you ask -- did you discuss

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1 your decision with terminating Petro before you finalized  
2 your decision?

3 A. I did not ask anyone for approval to make that  
4 decision.

5 Q. Did you -- did anyone else tell you that they  
6 approved of the decision?

7 A. After I made the decision, I think people  
8 concurred with it, but I didn't seek any approval.

9 Q. And who concurred with it?

10 A. Merlin concurred with it. Terry concurred with  
11 it. Andreas concurred with it.

12 Q. How about Charlotte?

13 A. I notified them after our decision was made.

14 Q. Did she concur with it?

15 A. I actually did not speak to Charlotte. I  
16 notified Vitol after a decision was made.

17 Q. Who at Vitol did you notify?

18 A. Sebastian Moretti.

19 Q. Did he concur with it?

20 A. He didn't have a say in what we chose to do. He  
21 could still feel free to continue with project work related  
22 to it. It was more of a formal notification to him that we  
23 were changing contractors.

24 MS. ROHN: I have no further questions.

25 Well, I have further questions, but you won't let

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1 me ask 'em.

2 MR. SIMPSON: I have no questions.

3 MR. BECKSTEDT: This is Carl Beckstedt. I do  
4 have some questions, and I will try to make it short.  
5 I understand this has been a long day.

6 Do I have --

7 MS. FRANCIS: Attorney Beckstedt, can we just  
8 get just two minutes as a rest break, please?

9 MR. BECKSTEDT: Oh, absolutely.

10 MS. ROHN: I thought we just took two minutes.

11 MS. FRANCIS: I don't think we just took two.

12 I need a comfort break, Attorney Rohn.

13 (A recess was taken at this time.)

14 CROSS-EXAMINATION

15 BY MR. BECKSTEDT:

16 Q. Good evening, Mr. Smith. My name is  
17 Carl Beckstedt, and I represent Vitol US Holding II Company  
18 and Vitol Virgin Islands Corp. Okay?

19 A. Yes, sir.

20 Q. I have a couple of follow-up questions.

21 First of all, early on in your testimony you stated  
22 that you think Petro did work for a Vitol entity on island.  
23 That's what I wrote down.

24 Do you know whether Vitol (sic) ever did actually any  
25 work directly for any Vitol entity on island?



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1 A. The only thing I know is that Vitol made direct  
2 payments to Petro. I don't know who that was to.  
3 Q. What do you know about that?  
4 MS. ROHN: Objection. Form.  
5 BY MR. BECKSTEDT:  
6 Q. What do you know about -- what knowledge does  
7 IPOS or do you personally have about Vitol -- Vitol entity  
8 making direct payments to Petro?  
9 A. Several projects such as the truck rack and the  
10 reverse flow loading, we were -- we had to grant permits  
11 for it. So, therefore, the work that was being done didn't  
12 come through us; however, there was work that was being  
13 done from Petro as well that was then reimbursed by Vitol  
14 to us.  
15 Q. You need to break that down for me. So are you  
16 saying that Vitol reimbursed you for payments that --  
17 meaning IPOS, for payments that IPOS made to Petro?  
18 A. For work commissioned by Vitol, yes, that's one  
19 part.  
20 Q. Okay. So when you say -- so when you say that  
21 Vitol paid Petro directly for work, it wasn't directly a  
22 check from a Vitol entity to Petro; it was a Vitol paying  
23 IPOS reimbursement for moneys that IPOS paid to Petro; is  
24 that correct?  
25 MS. ROHN: Objection to form.

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1 permits to allow access to the site.  
2 Q. Okay. And when did that work occur?  
3 A. Various times through the year. I mean, there  
4 was other work that fell under the same category as well.  
5 Those are just two examples. The truck rack, I believe,  
6 started in 2019, and the reverse flow, I believe, started  
7 in 2020.  
8 Q. Okay. And which Vitol entity do you understand  
9 worked -- contracted directly with Petro?  
10 A. No, that's -- that's what I believe that I had  
11 stated earlier. I don't know which entity had contracted.  
12 Q. And how do you know -- and was it -- I think I  
13 just misspoke. Was it a Vitol entity?  
14 A. It was -- yeah. I believe so, yes.  
15 Q. And what informs your belief that it was a Vitol  
16 entity?  
17 A. There were occasions where invoices would come to  
18 us instead, and we would say this is not us; this is for a  
19 Vitol project.  
20 Q. When you say invoices came to us instead, do you  
21 mean that Petro sent an invoice to IPOS for the work?  
22 A. Yes, as -- yes. In some cases, yes, depending on  
23 the project.  
24 Q. Okay. And when you received these invoices from  
25 Petro to IPOS for work that you did not believe or

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1 BY MR. BECKSTEDT:  
2 Q. I'm trying to understand your testimony, sir.  
3 A. No, there's two parts to it. So one part,  
4 correct. But the other part was there was work that Vitol  
5 commissioned directly to Petro that -- that we were not  
6 involved in the work. We were only involved in the  
7 permitting on-site.  
8 Q. When you say -- when you say "we were not  
9 involved in the work," you mean IPOS wasn't involved in the  
10 work; correct?  
11 A. That is correct, yes.  
12 Q. And was IPOS -- was IPOS -- for that type of work  
13 that you just described, was IPOS involved in any other  
14 aspect of the relationship between the Vitol entity and  
15 Petro for that work that you -- that IPOS issued permits  
16 for?  
17 A. Again, for the second part of that, no, we were  
18 not involved at all with that.  
19 Q. So you didn't -- you didn't receive any payments  
20 from Vitol that you -- in reimbursement -- well, you didn't  
21 pay Petro any money for that work on those projects?  
22 A. Again, it depends on the project. But for that  
23 part, for example, the reverse flow and truck rack, that is  
24 correct, we made no payments to Petro on anyone's behalf.  
25 We were not involved in the project. We only issued

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1 understand that IPOS was responsible for paying, did you  
2 give them back to Petro?  
3 A. That's correct.  
4 Q. And do you know what Petro did with them?  
5 A. I do not.  
6 Q. So you don't know which entity Petro ultimately  
7 billed for that work or invoiced for that work; correct?  
8 A. That is correct.  
9 Q. And so, as you sit here today, IPOS doesn't know  
10 whether it was a Vitol entity or some other entity like  
11 WAPA itself directly; correct?  
12 MS. ROHN: Objection. Form of the question.  
13 Asked and answered.  
14 BY MR. BECKSTEDT:  
15 Q. Am I correct, sir?  
16 A. No, you're not correct.  
17 Q. What is incorrect?  
18 A. The people from Vitol had told me that these  
19 projects, since we weren't doing them, were going to be  
20 done by Vitol.  
21 Q. Who told you that?  
22 A. Eduardo Garcia, Sebastian Moretti. I mean, there  
23 were other projects, APR, Aggreko tie in, the projects that  
24 did not go through us.  
25 Q. Okay. Now, did the RIO shades project go through

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1 you, IPOS?  
 2 A. Yes, it did. Yes, it did.  
 3 Q. Okay. So am I correct that Petro performed that  
 4 work on the RIO shades project pursuant to its contract  
 5 with IPOS?  
 6 A. I'm not sure I know the right answer to that.  
 7 MS. FRANCIS: Objection to the extent that  
 8 calls for a legal conclusion.  
 9 BY MR. BECKSTEDT:  
 10 Q. IPOS contracted with Petro; correct?  
 11 A. That's correct.  
 12 Q. And at the time of the RIO -- first of all, your  
 13 testimony earlier today was that after Adrian Melendez  
 14 informed IPOS he was leaving Vivot and starting his own  
 15 company, IPOS gave him some individual work without a  
 16 contract; correct?  
 17 A. Correct.  
 18 Q. And Petro did that work, and IPOS paid for it,  
 19 and then eventually you formed a contract with Petro;  
 20 correct?  
 21 A. That's correct.  
 22 Q. And the first contract -- that was the first  
 23 formal contract that you had with Petro for work at the  
 24 propane facilities that IPOS was managing; correct?  
 25 A. That's correct.

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1 share with you a document. You see this -- you see on your  
 2 screen a contract document that is IPOS -- starts with IPOS  
 3 Bates No. 4055 entitled "Services Agreement," and it has --  
 4 MS. ROHN: Can you blow that up? I can't see  
 5 it.  
 6 MR. BECKSTEDT: Can you see it now?  
 7 MS. ROHN: No, it's the same -- now I can.  
 8 BY MR. BECKSTEDT:  
 9 A. I can see it.  
 10 Q. All right. I'm going to represent to you that  
 11 this was produced by IPOS in this case. And it's Bates  
 12 No. 4055, and it appears to be 18 pages with attachments  
 13 that go to IPOS 4072.  
 14 Are you familiar with this document, or do you need me  
 15 to go through each page?  
 16 A. I'm familiar with the document.  
 17 Q. Can you identify it for me?  
 18 MS. FRANCIS: Attorney Beckstedt.  
 19 MR. BECKSTEDT: Excuse me?  
 20 MS. FRANCIS: Do you wish to give this an  
 21 exhibit designation?  
 22 MR. BECKSTEDT: Yeah, we'll designate -- thank  
 23 you, Attorney Francis. We'll designate this  
 24 Defendant's Exhibit 1 for this deposition.  
 25 (Services Agreement Bates No. IPOS 4055 to 4072

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1 MS. ROHN: Objection. Leading.  
 2 BY MR. BECKSTEDT:  
 3 Q. Is that correct?  
 4 A. That's correct.  
 5 Q. And you had testified earlier that that contract  
 6 was drafted by you personally taking forms that you had  
 7 seen previously used by IPOS; correct?  
 8 A. Yes.  
 9 MS. ROHN: Objection. Leading.  
 10 BY MR. BECKSTEDT:  
 11 A. That's correct.  
 12 MR. BECKSTEDT: It's foundational. I'm  
 13 getting --  
 14 MS. ROHN: You just having him repeat his  
 15 testimony.  
 16 MR. BECKSTEDT: I'm leading up to something.  
 17 BY MR. BECKSTEDT:  
 18 Q. And then after that contract was completed, there  
 19 was another contract that was entered, and that was the one  
 20 that Adrian Melendez drafted and presented to IPOS;  
 21 correct?  
 22 MS. ROHN: Objection. Leading.  
 23 BY MR. BECKSTEDT:  
 24 A. Yes, that's correct.  
 25 Q. All right. I want to show you -- I'm going to

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1 was marked as Defendant's Exhibit 1 for  
 2 identification.)  
 3 BY MR. BECKSTEDT:  
 4 Q. Can you identify it for the record for me?  
 5 A. Yes, this was the first contract that was signed  
 6 between Petro Industrial and IPOS.  
 7 Q. I'm going to show you what we'll mark as Defense  
 8 Exhibit No. 2.  
 9 (Maintenance Contract Bates Nos. PIS 2 to 7 was  
 10 marked as Defendant's Exhibit 2 for identification.)  
 11 BY MR. BECKSTEDT:  
 12 Q. This is a document that it was actually produced  
 13 by Petro in this litigation, Bates No. page 2 to 7. I just  
 14 scrolled through it. I'm maximizing it on the screen.  
 15 Are you familiar with this document?  
 16 A. Yes, I am.  
 17 MS. FRANCIS: For the record, that's PIS 2  
 18 through PIS 7.  
 19 MR. BECKSTEDT: Thank you.  
 20 BY MR. BECKSTEDT:  
 21 Q. Can you identify it for me?  
 22 A. That was the renewal contract signed between  
 23 Petro Industrial and IPOS.  
 24 Q. Okay. And was that the contract that was in  
 25 place between IPOS and Petro at the time of the RIO shades

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1 project?  
 2 A. Yes, that's correct.  
 3 Q. And was that the contract that was in place  
 4 between IPOS and Petro at the time of the 1-inch vent and  
 5 3-inch vent projects?  
 6 A. Yes, that's correct.  
 7 Q. And were there particularly -- particular agreed  
 8 labor rates with Petro underneath it pursuant to this  
 9 maintenance contract that's at Defense Exhibit No. 2?  
 10 A. Yes, there were.  
 11 Q. Now, I believe you characterized the RIO shades  
 12 project, the vent -- the 1-inch and the 3-inch vent line  
 13 projects as Vitol pass-through projects; is that correct?  
 14 MS. ROHN: Objection. Leading.  
 15 BY MR. BECKSTEDT:  
 16 Q. Is that how you characterized them?  
 17 A. Yes.  
 18 Q. All right. For Vitol -- what you call Vitol  
 19 pass-through projects, what role did IPOS play in those  
 20 projects?  
 21 A. We probably need to talk about each one.  
 22 Q. Okay.  
 23 MS. FRANCIS: Object to the extent this has  
 24 been asked and answered.  
 25 BY MR. BECKSTEDT:

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1 WAPA -- I'm sorry, on behalf of Vitol.  
 2 Q. And when you say "Vitol," just so we're clear,  
 3 we're talking about the entity Vitol Virgin Islands Corp.;  
 4 correct?  
 5 MS. ROHN: Objection. Leading.  
 6 MR. BECKSTEDT: Okay. Fine. I'm trying to  
 7 push this along with the foundational questions,  
 8 Attorney Rohn, rather than drag this out for  
 9 Mr. Smith.  
 10 BY MR. BECKSTEDT:  
 11 Q. But at any rate, when you say "Vitol," what  
 12 entity are you referring to, sir?  
 13 A. Vitol Virgin Islands Corp.  
 14 MS. FRANCIS: Attorney Beckstedt, if you're  
 15 going to ask the witness about that document, may I  
 16 ask that you blow it out because it's quite small.  
 17 MR. BECKSTEDT: I will.  
 18 MS. FRANCIS: Thank you.  
 19 BY MR. BECKSTEDT:  
 20 Q. Did IPOS have any other contractual agreements  
 21 with Vitol Virgin Islands Corp. for any work that IPOS  
 22 performed at the WAPA facilities on St. Thomas and  
 23 St. Croix other than this Facilities Services Agreement  
 24 that's marked as Exhibit 3, Defense Exhibit 3?  
 25 A. No, it did not.

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1 A. So --  
 2 Q. Let me -- let's back up before we talk about  
 3 that.  
 4 At this particular time, did IPOS have a contract with  
 5 Vitol Virgin Islands Inc.?  
 6 A. Yes.  
 7 Q. All right. Let me show you another exhibit.  
 8 MR. BECKSTEDT: We'll mark this as Defense  
 9 Exhibit 3.  
 10 MS. FRANCIS: Please provide Bates numbers.  
 11 MR. BECKSTEDT: I will. I'm sorry, just  
 12 trying to get it up on the screen.  
 13 This is Vitol Bates Nos. 12, and it's 25 pages.  
 14 It goes through to Vitol 36.  
 15 (Facilities Services Agreement Bates Nos. VITOL  
 16 12 to 36 was marked as Defendant's Exhibit 3 for  
 17 identification.)  
 18 BY MR. BECKSTEDT:  
 19 Q. Are you familiar with this document and -- are  
 20 you familiar with this document?  
 21 A. Yes, I am.  
 22 Q. Can you identify it for me?  
 23 A. It's the Facilities Service Agreement that was  
 24 signed prior to my arriving that said that IPOS would be  
 25 operating the Virgin Islands propane facility on behalf of

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1 Q. Okay. Did the work that IPOS performed at the  
 2 WAPA facilities in St. Croix and St. Thomas for  
 3 Vitol Virgin Islands Corp., was all that work performed  
 4 under this Facilities Services Agreement?  
 5 MS. ROHN: Objection. Leading.  
 6 BY MR. BECKSTEDT:  
 7 A. Yes, it was.  
 8 Q. Okay. So I'll ask it another way. Did IPOS  
 9 perform any work related to the Randolph Harley Power Plant  
 10 in St. Thomas and/or the Richmond Power Plant located in  
 11 St. Croix under any other agreements or contracts other  
 12 than the Facilities Services Agreement at Defense  
 13 Exhibit 3?  
 14 A. No, it did not.  
 15 Q. Okay. And turning to -- first of all, are you  
 16 familiar in -- in your line of business of -- with what are  
 17 called independent contractors?  
 18 A. Yes, I am.  
 19 Q. And what does that -- what does that mean to you  
 20 in your line of business, such as what IPOS was doing under  
 21 this contract?  
 22 MS. FRANCIS: Just to be clear, that's asking  
 23 for this witness' understanding and not for a legal  
 24 conclusion. Correct?  
 25 MS. ROHN: And objection to the form.

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1 MR. BECKSTEDT: Correct.

2 BY MR. BECKSTEDT:

3 Q. I'm asking for your understanding from a business  
4 perspective in your -- in your business work.

5 A. The one company would ask or contract with either  
6 another company or individual to perform services.  
7 However, they are not representing the original company is  
8 how I define it.

9 Q. And who had control over the methods and means  
10 that IPOS conducted its work?

11 A. IPOS itself and shareholders.

12 Q. And was Petro considered an independent  
13 contractor with respect to its relationship with IPOS?

14 MS. ROHN: Objection. Leading.

15 BY MR. BECKSTEDT:

16 A. Again, legally I don't know. But, I mean, I  
17 would say yes, based upon the definition that I had given  
18 you.

19 Q. Right. I'm just talking about in terms of your  
20 -- your work relationships from a business perspective, not  
21 from a legal perspective.

22 A. Okay. Then yes.

23 Q. All right. And who is responsible for the means  
24 and methods of executing the actual work that -- that Petro  
25 was contracted to do?

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1 A. That would be, again, depending on the project,  
2 but that would be us, IPOS.

3 Q. Well, in terms of if you hired Petro to do work  
4 and you gave them a project or if they had -- they had work  
5 to do, who was responsible for the actual work that was  
6 being performed?

7 A. Oh, Petro --

8 MS. ROHN: Objection. Form.

9 BY MR. BECKSTEDT:

10 A. -- was responsible for the work.

11 Q. Okay. And then what was -- fair enough.

12 Now, with respect to the projects, the Vitol  
13 pass-through projects, I see here in the contract -- I'm  
14 going to turn your attention to Exhibit A, paragraph (b).  
15 I'm going to blow this up a little bit.

16 Can you see Exhibit A?

17 A. I can see the top, yes, not -- not the paragraph  
18 (b). It's -- you need to scroll up.

19 Q. I'm gonna scroll to it. I'm going to direct you  
20 to it.

21 So under paragraph -- well, first of all, Exhibit A,  
22 Scope of Services, is this typical in contracting in your  
23 business to have a Scope of Services as part of a contract?

24 MS. FRANCIS: Objection.

25 MS. ROHN: Objection to form.

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1 MS. FRANCIS: Form. Overly broad.

2 BY MR. BECKSTEDT:

3 Q. Are you familiar with -- let me reask it. Are  
4 you familiar with what a Scope of Services is?

5 A. So actually not. This is the only one that I've  
6 ever worked with, and it was signed prior to me coming.

7 Q. Fair enough. Okay.

8 Under subsection (b), it says "IPOS shall assist Vitol  
9 in administering and managing the operating budget process  
10 with WAPA and to accounting and recording --" actually, let  
11 me strike that a second.

12 I want to go down to subsection (d). "IPOS shall  
13 coordinate the Services of any sub-contractors performing  
14 Services on the Plants."

15 Do you see that provision?

16 A. Yes.

17 Q. Okay. Did that provision cover IPOS' role with  
18 respect to the work performed by Petro in the Vitol  
19 pass-through projects?

20 MS. ROHN: Objection. Form.

21 BY MR. BECKSTEDT:

22 A. I don't know the answer to that.

23 Q. Okay.

24 There were a lot of questions in your testimony  
25 earlier about the welding procedures that were required to

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1 be followed with respect to the Petro work.

2 Do you recall generally that testimony?

3 A. Yes, sir.

4 Q. At one point there was some discussion about  
5 requirement to inspect welds and only need the -- the need  
6 only to inspect 10 percent of the -- of the welds.

7 Do you recall that testimony?

8 A. Yes, sir.

9 Q. Okay. And my notes reflect that at one point  
10 with respect to the 3-inch vent line, you talked about that  
11 criteria being in a document provided by Vitol, is what I  
12 wrote down was your testimony.

13 Was there a document provided by Vitol with respect to  
14 that welding criteria or not?

15 A. I -- if I said that, that's not what I meant.

16 The document was -- yeah. Sorry.

17 Q. That's fine. Could you clarify then for the  
18 record?

19 A. Yes. So the -- the Vitol person,  
20 Tim Kologinczak, sent Petro an e-mail of what was required,  
21 which would be like certifications. However, the welding  
22 -- the actual welding policy was a VTSS/IPOS welding  
23 policy.

24 Q. Okay. So I'm gonna share -- I'm gonna share  
25 Plaintiff's Exhibit 301 that was already used in this

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1 deposition.

2 You have that in front of your screen?

3 A. Yes, I can see it.

4 MS. FRANCIS: Again, that's very small,  
5 Attorney Beckstedt.

6 MR. BECKSTEDT: I'm working on it. Just you  
7 have to bear with me. I apologize. Now my computer  
8 just did something goofy.

9 MS. FRANCIS: Yes, the goofy is you are no  
10 longer sharing the document as far as we can see.

11 MR. BECKSTEDT: Yeah. And I've got Skype  
12 opening up. I got all kinds of goofy stuff happening.

13 Let me get back to this document. And let me get  
14 back to Zoom.

15 BY MR. BECKSTEDT:

16 Q. Now, I don't know why I don't see it the way you  
17 do, but is it getting big?

18 A. Yes.

19 Q. And do you recall looking at Plaintiff's  
20 Exhibit 301, the "Piping Specifications For Welding"?

21 A. Yes.

22 Q. Is this the document that you're referring to?

23 A. Yes.

24 Q. Okay. And this is a VTTI document; correct?

25 A. Well, it's a VTSS document. That was the

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1 discussion about the letterhead says VTTI, but it was  
2 produced originally by VTSS.

3 Q. Okay. And if I recall correctly, that's an  
4 affiliate of IPOS; correct?

5 A. It's not the affiliate. It's the -- the  
6 shareholder of the LLC, the --

7 Q. So -- okay. The bottom line is it's not a Vitol  
8 document; correct?

9 A. That is correct.

10 Q. Okay. Now, you mentioned about an e-mail from  
11 Tim with respect to project documents that were gonna be  
12 required; correct?

13 A. Yes.

14 Q. Would it -- for this 3-inch vent line project,  
15 can you tell me specifically all the different things,  
16 categories, I'm not asking for every specific minute spent,  
17 but for categories, what was IPOS' role with respect to  
18 coordinating that -- Petro for that pass-through project?

19 A. So on that specific project, for example, when  
20 the crew shows up for the day, it would be IPOS'  
21 responsibility to write the work permit and issue the  
22 permitting to, again, hot work, PPE, things I mentioned  
23 earlier. And then Vitol or Andrew Canning was the project  
24 manager for that 3-inch project.

25 But, again, because it's happening on our facility,

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1 just like on some of it was happening on WAPA's facility,  
2 they would also permit it as well. You know, WAPA safety,  
3 IPOS safety were involved. Merlin had been on-site as well  
4 during this. I mean, it was a big project.

5 Q. What other roles did IPOS play in that project?

6 A. Yeah, I'm not really aware of any other that I  
7 can think of.

8 Q. Didn't Petro give the bids to IPOS?

9 MS. ROHN: Objection. Leading.

10 MS. FRANCIS: Objection. As to what project?

11 MR. BECKSTEDT: The 3-inch stainless steel  
12 vent project I'm talking about right now.

13 BY MR. BECKSTEDT:

14 A. I actually -- I don't know, but I think it was  
15 given to Andrew, not to IPOS, but I don't know.

16 Q. All right. I'd like to show you a document see  
17 if this refreshes IPOS' recollection. Hold on a second.

18 There's an IPOS production that starts at IPOS 656 and  
19 goes all the way to IPOS 666. And I'm about to share that  
20 with you.

21 MR. BECKSTEDT: We'll mark that as DX 4. So  
22 this is a document produced by IPOS.

23 (Documents Bates Nos. IPOS 656 to 666 were marked  
24 as Defendant's Exhibit 4 for identification.)

25 BY MR. BECKSTEDT:

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1 Q. Do you -- I'm going to blow it up.

2 Do you want me -- are you familiar with this document,  
3 or do you want me to go through it?

4 A. Well, I mean, if you can scroll through quickly,  
5 but I am familiar with --

6 Q. Okay.

7 A. -- at least the Petro proposal.

8 MS. ROHN: Can you put it bigger enough so we  
9 can see it?

10 MR. BECKSTEDT: All right. I was -- I can do  
11 that. Is that big enough so you can see it?

12 MS. ROHN: Sure. Perfect.

13 BY MR. BECKSTEDT:

14 Q. It's 11 pages. I'm -- if I'm going too fast, I'm  
15 just trying to see if you recognize it enough that you can  
16 competently talk about it.

17 A. Yes.

18 Q. Okay. So can you just identify what this is for  
19 us?

20 A. Yeah, that is the proposal that Petro had given  
21 for the 3-inch vent lines.

22 Q. Okay. So that went to IPOS, and then what did  
23 IPOS do with it?

24 A. Well, it actually went to IPOS and  
25 Andrew Canning.



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1 Q. Fine. What did IPOS do with it?

2 A. We -- to the best of my knowledge, we did nothing

3 with it. It wasn't one of our projects.

4 Q. Okay. Did IPOS have any kind of communications,

5 though, with respect to this project?

6 A. I can't speak to what Merlin may have done to

7 that, but, yes, he was somehow involved in this in the

8 discussions.

9 Q. You're here today as a IPOS representative; so

10 I'm going to show you another document, and just see if

11 this refreshes IPOS' recollection. Okay?

12 A. Yes.

13 Q. I only -- I believe -- well, I don't want to

14 misstate anything. The document I have is a Vitol Bates

15 document, but I'm gonna show it to you, and see if you

16 recognize it.

17 MR. BECKSTEDT: It's Vitol Bates No. 11500,

18 and we'll mark this as Defense Exhibit 5, I believe.

19 (E-mail Bates No. VITOL 11500 was marked was

20 Defendant's Exhibit 5 for identification.)

21 MS. ROHN: Can you blow it up so we can see

22 it?

23 MR. BECKSTEDT: I will. Just bear with me.

24 BY MR. BECKSTEDT:

25 Q. You see that?

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1 issue of law. That was asking whether or not this

2 would be a record of -- of IPOS.

3 BY MR. BECKSTEDT:

4 Q. You do maintain -- IPOS does maintain its

5 e-mails; correct?

6 MS. FRANCIS: Again, the e-mail is created not

7 by an IPOS person. So I'm not trying to argue with

8 you, but this is an e-mail not authored by IPOS, is a

9 IPOS business record.

10 MR. BECKSTEDT: All right, I'll withdraw the

11 question, Attorney -- I'll withdraw the question.

12 I'll recharacterize it.

13 BY MR. BECKSTEDT:

14 Q. Did IPOS have any role with respect to

15 coordinating project documents for the work for the 3-inch

16 -- 3-inch vent line work?

17 A. No.

18 Q. All right. Let's look at this e-mail. Tim says

19 to Merlin "Per our conversation on Tuesday, we will be

20 providing WAPA with all the job book documentation --"

21 sorry. I can't read that. -- "for this project. This

22 includes the engineering/design/scope/construction

23 documentation for them to review - and after completion for

24 their records as this work is being done on their property.

25 "Can you please send over the following."

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1 A. Yes.

2 Q. All right. This is February 24, 2021. Would you

3 agree?

4 A. Yes.

5 Q. And it's from Tim Kologinczak. I know I'm not

6 pronouncing that right. I think the only one that can

7 pronounce it is the court interpreter earlier today.

8 A. No, Kologinczak.

9 Q. Kologinczak. Thank you.

10 To Merlin and Adrian and cc'ing Charlotte. You see

11 that?

12 A. Yes.

13 Q. Are you familiar with this document as the IPOS

14 representative?

15 A. I -- I have seen it. Obviously not -- was not

16 copied on it initially.

17 Q. Right. From an IPOS corporate perspective as a

18 representative, would it be fair to say that this is a

19 business record of IPOS, and IPOS has familiarity with it?

20 A. Yes.

21 MS. FRANCIS: Objection. Objection. That

22 calls for a legal conclusion, Attorney Beckstedt.

23 This witness is not here to testify as to issues of

24 law.

25 MR. BECKSTEDT: Okay. So I'm not asking an

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1 And then there's a list of work prior to work and

2 after construction completion. Do you see that?

3 A. Yes.

4 MS. FRANCIS: For the record, this is

5 addressed to Merlin and Adrian Melendez.

6 MR. BECKSTEDT: Correct.

7 BY MR. BECKSTEDT:

8 Q. And is it IPOS' position that it had no

9 responsibility to collect this documentation?

10 A. That's correct. Our responsibility was to

11 facilitate the safe work of this.

12 Q. Okay. Did IPOS play any role in corresponding

13 with Petro regarding concerns raised by WAPA with respect

14 to the project?

15 A. I'm not aware.

16 Q. All right. Did there not come a time with

17 respect to the 3-inch vent line project where there was a

18 concern that Petro was not providing all of the

19 documentation that was required with respect to the

20 project?

21 MS. ROHN: Objection to form.

22 BY MR. BECKSTEDT:

23 A. Yes.

24 Q. And that included things such as the welders'

25 certifications and qualification records that had been



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1 discussed in your testimony earlier today; right?

2 A. Yes.

3 Q. And am I not correct that at some point

4 Mr. Andreas Constantinou got pulled into that issue?

5 MS. ROHN: Objection to form. Leading.

6 MR. BECKSTEDT: I'm asking.

7 BY MR. BECKSTEDT:

8 Q. Did -- well, did Andreas Constantinou get pulled

9 into that issue?

10 A. Yes.

11 MS. ROHN: Objection. Leading.

12 MR. BECKSTEDT: That's not -- okay, that's

13 fine.

14 BY MR. BECKSTEDT:

15 A. Yes.

16 Q. And what -- and what did -- what did he -- and he

17 was -- if I understand from your earlier testimony, his

18 assistance to IPOS was through a consulting -- or a

19 services agreement with an annual fee connected to it;

20 right?

21 MS. ROHN: Objection. Leading question.

22 MR. BECKSTEDT: It's foundational.

23 BY MR. BECKSTEDT:

24 Q. Is that correct?

25 A. Yes.

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1 for the RIO shade project?

2 A. I'd have to look --

3 MS. ROHN: Objection.

4 BY MR. BECKSTEDT:

5 A. I'd have to look at the exact date when the bids

6 were put out, because Andrew put the bid out, but I don't

7 know if he was contracted to Vitol at that point or

8 contracted to IPOS.

9 Q. That brings up another good point. Let's just

10 cover that quickly.

11 In the beginning of your -- you don't know exactly the

12 date when Andrew went from a IPOS consultant -- when OPTIS

13 basically went from an IPOS consultant to a Vitol

14 consultant; correct?

15 A. No, that's incorrect. It was June 30th was -- of

16 2020 was his last day as a IPOS/OPTIS. And June --

17 July 1st of that same year was when he became officially

18 contracted through Vitol.

19 Q. So if there is a written contract between a Vitol

20 entity and OPTIS for their consulting -- engineering

21 consulting work that is dated November 1, 2021, you would

22 say that's in error?

23 A. No. There is that contract. Sebastian Moretti

24 said for us as of July 1st no longer to pay. It was a

25 reimbursable expense handed direct to Vitol who paid that

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1 Q. What assistance did Mr. Constantinou provide to

2 IPOS with respect to the document deficiencies on this

3 3-inch vent line project?

4 A. He was given access to the Dropbox. He was given

5 the welder qualification records, anything associated with

6 it in helping us to determine what questions needed to be

7 asked of Petro to determine the validity of the

8 qualification of the welders.

9 Q. Got it. Okay.

10 I want to talk about the RIO shades project. What

11 role did IPOS play with respect to the RIO shades project?

12 A. So it was a little bit different on the two

13 islands. So, I mean, it -- should we start with one island

14 and kind of go to the next island?

15 Q. Sure. Yes, that's fine.

16 A. On St. Croix, so David Nagle was the one that did

17 the engineering design for the RIO shades panel and was

18 paid by the Vitol entity a pass-through on that -- for that

19 work, for the engineering work, as well as Andrew was the

20 project manager for that work and oversaw it there on

21 St. Croix.

22 And on St. Thomas, Andrew was not on the island -- was

23 out of the territory, and so it was done with IPOS

24 supervision to complete the project.

25 Q. Okay. Am I correct that IPOS put out the bids

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1 outside of our -- out of our budget while they were

2 negotiating to get a contract done.

3 Q. So can you just explain the mechanics of that for

4 me so I can understand what those words mean from like an

5 actual real sense?

6 MS. ROHN: Objection to form.

7 BY MR. BECKSTEDT:

8 A. Sure.

9 Q. Thank you.

10 A. So we submitted the budget prior to July 1st of

11 2020. And during that discussion, it was determined that

12 Andrew -- Eduardo Garcia from Vitol was still involved with

13 the discussions and still involved with the Virgin Islands;

14 so the budget was submitted to him. He had us remove any

15 of the OPTIS charges out of the IPOS budget, and -- which

16 we did, and then they said they were going to contract

17 directly with OPTIS for Andrew's services. And until the

18 actual contract was signed, they wanted to us continue to

19 pay and to pass it through as a reimbursable.

20 So earlier on today, they showed an invoice, for

21 example, and so there were invoices that were sent that

22 were for the actual operations. There were ones that were

23 sent for pass-throughs, and that was a pass-through that

24 was sent to them while they negotiated. It was not

25 recorded against our operational budget.

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1 Q. Okay. So just to be clear, the services that  
2 OPTIS provided from July 1, 2020, forward -- well, let's  
3 strike that.

4 What was the date that IPOS no longer paid any money  
5 to OPTIS? And I'm not talking about -- I want to -- okay,  
6 let's break it up.

7 If I understand your testimony correct, there came a  
8 point in time after July 1st or starting July 1, 2020,  
9 where IPOS wrote a check or paid -- wired money to OPTIS,  
10 and then Vitol Virgin Islands Inc. or a Vitol entity then  
11 reimbursed with a payment to IPOS to cover that so that it  
12 was a wash on the IPOS books. Do I have that correct?

13 A. Well, it --

14 MS. ROHN: Objection to form.

15 MR. BECKSTEDT: I'm trying to --

16 BY MR. BECKSTEDT:

17 A. So the money was transferred, but it was kept off  
18 of the books. It's a reimbursable expense. I'm not  
19 accountant, so I can't speak to the accounting behind it,  
20 but it was not recorded as part of our operational  
21 expenses.

22 Q. I get it.

23 So from a general ledger perspective or an accounting  
24 perspective, it went into a separate ledger account that  
25 was not part of the financials for IPOS; right?

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1 MS. FRANCIS: He just testified he's not an  
2 accountant.

3 MR. BECKSTEDT: He's also testifying about a  
4 pass-through expense.

5 BY MR. BECKSTEDT:

6 A. Yeah, I'm not -- I'm not an accountant, but, yes,  
7 I believe that to be the case.

8 Q. Right. So physically, the tender of the money,  
9 it comes out of a IPOS account, or IPOS does the wiring of  
10 the money or however you're going to pay it, to OPTIS, and  
11 then IPOS gets a payment to cover that from the Vitol  
12 entity. That's really what happens at least practically in  
13 the world. That's how the money goes; right?

14 MS. ROHN: Objection. Form.

15 BY MR. BECKSTEDT:

16 A. Yes.

17 Q. Is that correct?

18 A. Yes.

19 Q. Okay. I get it.

20 Now, how -- at what point in time, if you know, did  
21 IPOS stop paying these we'll call them -- I guess you're  
22 calling them Vitol expenses to OPTIS?

23 A. I don't know exactly. It was approximately  
24 November of 2020, maybe December at the latest. May have  
25 been the last payment because of the lag of the billing.

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1 Q. Okay. So if Andrew Canning were to have  
2 testified that from his perspective December 1, 2020, was  
3 when he started consulting for Vitol, that might jive with  
4 when you stopped paying OPTIS -- I mean, IPOS stopped  
5 paying OPTIS in this dynamic that you've explained?

6 MS. ROHN: Object to form.

7 BY MR. BECKSTEDT:

8 Q. Is that fair?

9 MS. FRANCIS: Yeah, objection to form.

10 BY MR. BECKSTEDT:

11 A. Yes.

12 Q. Okay.

13 All right, getting back to the RIO shades, I want to  
14 share with you -- no, I don't want to the share this with  
15 you. I want to share something else with you. Where is  
16 it?

17 MR. BECKSTEDT: All right. I'm gonna to tell  
18 you the Bates Nos. We'll mark this Defense Exhibit 6.  
19 And it goes from Bates No. IPOS 8322 to IPOS 8341.

20 (RFQ - RIO Shade Installation St. Croix Bates  
21 Nos. IPOS 8322 to 8341 was marked as Defendant's  
22 Exhibit 6 for identification.)

23 BY MR. BECKSTEDT:

24 Q. Do you want me to scroll through this 20-page  
25 document, or do you recognize it?

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1 A. You're gonna need to scroll through it if there's  
2 going to be questions related to it.

3 Q. Okay. So I'm going to scroll through this and  
4 ask you if recognize this document -- if IPOS recognizes  
5 this document?

6 MS. FRANCIS: Was this e-mailed to us,  
7 Attorney Beckstedt?

8 MR. BECKSTEDT: Excuse me?

9 MS. FRANCIS: Was this e-mailed?

10 MR. BECKSTEDT: Was this e-mailed?

11 MS. FRANCIS: Yes, as a deposition exhibit.

12 MR. BECKSTEDT: No, I didn't intend to use it  
13 until it got into the deposition. Do you want me to  
14 e-mail it to you now?

15 MS. FRANCIS: No. You just need to scroll  
16 through slowly so that I can see the document. Thank  
17 you.

18 MR. BECKSTEDT: Okay.

19 BY MR. BECKSTEDT:

20 Q. If this is going too fast, let me know. If you  
21 want me to reduce the size and you can still see it well  
22 enough to review, if you recognize it, let me know.

23 A. Thank you.

24 Q. Okay. Do you recognize the document?

25 A. It's -- it's one of our documents.

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1 Q. Okay. And what's RFQ mean?  
 2 A. Request for quotation.  
 3 Q. Okay. So would it be fair to say that IPOS put  
 4 out the request for quotes or bids for the RIO shade  
 5 installation in St. Croix Richmond Plant?  
 6 MS. ROHN: Objection to form.  
 7 BY MR. BECKSTEDT:  
 8 Q. What does this document -- I'll reask it.  
 9 What does -- what does -- what is this document  
 10 purport to be?  
 11 A. Yes, a request for a quotation to perform the RIO  
 12 shade work.  
 13 Q. And when were those bids due?  
 14 A. Well, at least on this one, January 5, 2020.  
 15 Q. Who was Andrew Canning working for -- who was  
 16 OPTIS contracted with and being paid by in January of 2020?  
 17 MS. FRANCIS: Objection.  
 18 BY MR. BECKSTEDT:  
 19 A. IPOS.  
 20 MR. BECKSTEDT: What was the objection,  
 21 Attorney Francis?  
 22 MS. FRANCIS: Objection. Form. Compound.  
 23 BY MR. BECKSTEDT:  
 24 Q. And David Nagle was contracted by IPOS. Who --  
 25 all right. You already testified, right. David Nagle was

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1 -- who contracted with David Nagle for the RIO shade  
 2 project?  
 3 A. At this point, IPOS.  
 4 Q. Okay. And I believe you said just a little while  
 5 ago to my questioning that David Nagle did the design for  
 6 St. Croix, and that was a pass-through reimbursable by  
 7 Vitrol; is that correct?  
 8 MS. ROHN: Objection to form.  
 9 BY MR. BECKSTEDT:  
 10 Q. Is that your testimony?  
 11 A. He did the design for both islands.  
 12 Q. Oh, okay.  
 13 And was his design work for both islands -- did he  
 14 bill IPOS for that work?  
 15 A. Again, it goes back to the pass-through. So this  
 16 project by the time the quotations were received and the  
 17 work was actually done, did not go into the IPOS operations  
 18 expense budget. It was a separate project that was a  
 19 pass-through to Vitrol.  
 20 Q. I understand. But from a physical perspective,  
 21 did Mr. Nagle send the bill to IPOS for his work on this  
 22 project?  
 23 A. Yes, similar to what I just explained, though, it  
 24 was -- again, without having exact accounting rules, it was  
 25 on a different ledger to use the example you gave earlier.

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1 Q. I get it. Okay.  
 2 So getting back to my earlier question, what role did  
 3 IPOS play with respect to the RIO shades project. We know  
 4 that IPOS issued the request for quotation; correct?  
 5 A. Correct.  
 6 Q. We know that IPOS contracted with Mr. Nagle, the  
 7 engineer, to do the design work, albeit on a pass-through  
 8 basis, but you guys coordinated that, correct, meaning  
 9 IPOS?  
 10 MS. ROHN: Objection. Leading.  
 11 BY MR. BECKSTEDT:  
 12 A. Correct.  
 13 Q. We know that -- I'll rephrase it.  
 14 We know that IPOS coordinated the contracting of  
 15 Mr. Nagle for his design work; correct?  
 16 A. Correct.  
 17 MS. ROHN: Objection. Leading.  
 18 BY MR. BECKSTEDT:  
 19 Q. And what else did IPOS do with respect to the RIO  
 20 shades project?  
 21 A. Again, I believe we spoke about it. On  
 22 St. Croix, it was overseen by Andrew Canning, and IPOS  
 23 issued the permit to work related to that. And on  
 24 St. Thomas, he was out of the territory, and so all of the  
 25 work was overseen and project managed by IPOS.

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1 Q. Got it.  
 2 And so when IPOS -- just talk to me a little bit about  
 3 what IPOS does when it does the project management work on  
 4 St. Thomas for the RIO shades project.  
 5 Is IPOS actually directing the methods and means that  
 6 the Petro people are welding or doing their jobs?  
 7 A. Well, on this specific project, I don't know that  
 8 I can answer that.  
 9 Q. Okay. Would you agree with me that IPOS' job in  
 10 supervising is making sure that the work meet spec?  
 11 MS. ROHN: Objection to form.  
 12 MS. FRANCIS: Objection. Form. Foundation.  
 13 Vague.  
 14 MR. BECKSTEDT: Okay.  
 15 BY MR. BECKSTEDT:  
 16 Q. Does IPOS play -- in its supervision of the work  
 17 of a contractor in this case, does -- does IPOS' role  
 18 include anything related to quality control for meeting  
 19 specifications of project?  
 20 A. I would definitely say that IPOS has to ensure  
 21 that it is installed correctly and working properly, yes.  
 22 Q. And to your knowledge, do you know if that would  
 23 be the same -- well, strike that.  
 24 MS. FRANCIS: Attorney Beckstedt, we've now  
 25 gone another hour. We're taking a break.

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1 MR. BECKSTEDT: That's fine. You don't -- you  
2 could have just asked. I would have agreed to it.  
3 You didn't have to command it.

4 How much time do you want.

5 MS. FRANCIS: We've now been going almost  
6 12 hours with this witness. So I do apologize if I  
7 sound a little sharp or impatient, but I do need a  
8 break. Thank you very much.

9 MR. BECKSTEDT: No problem.

10 (A recess was taken at this time.)

11 BY MR. BECKSTEDT:

12 Q. And with respect to the 1-inch vent line project  
13 and IPOS' role, would IPOS defer to whatever is, I guess,  
14 shown in the e-mails and exhibits that have been -- and the  
15 documents that have been produced in discovery with respect  
16 to its role in the 1-inch vent line?

17 MS. FRANCIS: Objection.

18 MS. ROHN: Objection to form.

19 MS. FRANCIS: Objection. Form. Objection.  
20 That is too board of a question for the witness to  
21 answer in a case --

22 (Interruption by the court reporter.)

23 -- where we have 15,000 documents.

24 MS. ROHN: It's more than 15,000.

25 MR. BECKSTEDT: All right. I'll tell you

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1 what, I'll just withdraw the question, and I'll move  
2 on to the next topic, my last topic.

3 BY MR. BECKSTEDT:

4 Q. Mr. Smith, you testified that -- I believe there  
5 were some e-mails from Andrew Canning, and you testified  
6 that -- I don't want to put words in your mouth, but  
7 according to my notes, it's not the way you would have  
8 communicated the issues that Andrew Canning communicated in  
9 those e-mails.

10 Do you recall that testimony?

11 MS. ROHN: Objection to form. Leading.

12 BY MR. BECKSTEDT:

13 A. Yes.

14 Q. Okay. With respect to Mr. Canning's conduct, did  
15 you ever -- did IPOS -- well, first, did IPOS ever observe  
16 any conduct either in action or in words by Mr. Canning  
17 that it considered to be discriminatory?

18 A. No.

19 Q. Did IPOS ever observe any conduct by Mr. Canning  
20 that it considered to be racist?

21 A. No.

22 Q. And --

23 MR. BECKSTEDT: I have no further questions.

24 That's it. Thank you.

25 MS. FRANCIS: Attorney Simpson.

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1 MR. SIMPSON: I have no questions.

2 MS. FRANCIS: Okay. Thank you. We are  
3 concluded.

4  
5 (At 8:13 p.m., the deposition of this witness  
6 was concluded.)

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# CERTIFICATE OF REPORTER

1  
2  
3 I, YVONNE SAMUEL-SETORIE, Registered  
4 Professional Reporter, do hereby certify that the above and  
5 named witness, DAVID MICHAEL SMITH, after being duly sworn,  
6 was examined and testified via Zoom video conference as is  
7 set forth; and that the answers of said witness to the oral  
8 interrogatories propounded by counsel were taken by me in  
9 machine shorthand, and represents the official transcript  
10 of said deposition; and that said deposition is true and  
11 correct, to the best of my ability.

12  
13 I FURTHER CERTIFY that I am not counsel,  
14 attorney, or relative of either party, nor financially or  
15 otherwise interested in the event of this lawsuit.

16  
17 IN WITNESS WHEREOF, I have hereunto  
18 subscribed my hand on this 31st day of July 2023.

19  
20  
21

22  
23  
24  
25  
YVONNE SAMUEL-SETORIE, RPR